



The HR WIRE

ETC HR Employer Compliance News II *Making Compliance Connections*

January 2026

SECTION IV: Previously Reported Regulatory Matters

Workplace Notices Updates (2025 YTD)

Federal

Form I-9 Updated. The [revised](#) Form I-9 is dated "01/20/25" and has an expiration date of "05/31/2027."

Updated [Model CHIP Notice](#) released with a new effective date of July 31, 2025

[New model Employer CHIP Notice](#) has been released and now reflects information as of March 17, 2025. As a reminder, the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) imposes an annual notice requirement on employers that maintain group health plans in states that provide premium assistance subsidies under a Medicaid plan or a Children's Health Insurance Plan (CHIP).

Form I-9 Updated. The [revised](#) Form I-9 is dated "01/20/25" and has an expiration date of "05/31/2027." On April 2, 2025, the U.S. Citizenship and Immigration Services (USCIS) updated its Employment Eligibility Verification form (Form I-9) and the Department of Homeland Security (DHS) Privacy Notice in the form's [instructions](#) to align with statutory language.

The new Form I-9 has the following changes:

- The term "noncitizen" was replaced with "alien"
- The term "gender" was replaced with "sex"
- A new edition date of 1/20/25

The updated Form I-9 is currently available for employers to use. Additionally, employers may continue to use prior editions of the form until their respective expiration dates, as follows:

Form I-9 (08/01/23 edition) is valid until May 31, 2027; and

Form I-9 (08/01/23 edition) is valid until July 31, 2026 (employers using this form must update their electronic systems with the May 31, 2027, expiration date by July 31, 2026).

Federal Contractor Notice Update **Reminder**

As a result of Executive Orders 14236 and 14173, employers can remove the **Pay Transparency Non-Discrimination Notice** and the **EO 14026 Federal Contractor Minimum Wage Notice (\$17.75)**. With these changes, the contractor minimum wage now reverts to \$13.30 under EO 13658, and the Pay Transparency notice is no longer required to be posted.



State Workplace Notices (2025 YTD in Alphabetical order)

December

- CA – updated [Minimum Wage Notices](#)
- CO – updated [CO Wage & Hour Rights Notice](#) and [FAMLI Program](#)
- DC – updated [DC Paid Family Leave Notice](#) (includes increased max weekly benefit amount) Employers have until 2.1.2026 to post/provide Notice
- IL – updated [Your Rights Under Employment Laws Notice](#), [VESSA "Victims' Economic Security & Safety Act" Notice](#) and [IL OSHA "It's the Law" Notice](#)
- LA – updated [Unemployment Insurance Notice](#) now specifies that claimants complete at least five valid work-search actions each week, replacing the prior general "active work search" standard.
- NJ – updated [Minimum Wage Notice](#) and [Captive Audience Notice \(attached\)](#)
- NY – updated 2026 NY [Minimum Wage Notice](#) NOTE: like directs reader to Notices broken down by industries
- NM – updated [Workers' Compensation Notice](#) Employers be sure to add your W/C Carrier name and other required details into the Notice
- VA – updated [Minimum Wage Notice](#)

November

- AZ – updated state [Minimum Wage Notice](#)
 - Flagstaff – updated [Minimum Wage Notice](#)
 - Tucson – updated [Minimum Wage Notice](#)
- MA – updated [Minimum Wage Notice](#) & [Paid Family and Medical Leave \(PFML\) Notice](#)
- MN –
 - **REMINDER:** Starting January 1, 2026, Minnesota's new **Paid Leave Program** will allow employees to take paid time off for major life events, including caring for a new child, recovering from a serious health condition, or supporting a family member. **Employers must inform employees of their rights under this program by December 1, 2025, through both a workplace posting and individual written notice.** The Paid Leave Notice must be displayed in a visible location.
 - **New [Paid Family & Medical Leave Notice](#) & [Sample Employee Notice](#)**
 - Additionally, Minnesota's minimum wage will increase to \$11.41 per hour, with a training wage of \$9.31 per hour, effective the same date. Updated [Minimum Wage Labor Notice 1.1.26](#)
- MO – updated [Minimum Wage Labor Notice](#)
- MT - Updated [Minimum Wage Labor Notice](#). Beginning January 1, 2026, Montana's Minimum Wage will increase from \$10.55 to \$10.85 per hour.
- OH – updated [Minimum Wage Notice](#) for Jan 1, 2026
- PA – [Veterans' Benefits & Services Notice](#) required of employers with 50 or more FTEs
- SD – Updated [Minimum Wage Labor Notice](#). Beginning January 1, 2026, South Dakota's minimum wage will increase from \$11.50 to \$11.85 per hour.
- VT – updated [Minimum Wage Notice](#)
- WI – updated [Unemployment Benefits Notice](#)

October

VT – issued updated notices:

- [Unemployment Insurance](#),
- [Accommodations for Pregnant Employees](#),
- [Child Labor Law](#),
- [Employer's Liability & Workers' Compensation](#),
- [Employment Protections for Victims of Crime](#),



- [Healthcare Whistleblower Protection](#),
- [Parental and Family Leave](#),
- [Safety Records Notice](#),
- [Sexual Harassment Notice](#),
- [Earned Sick Time Act](#), and
- [Workers' Compensation Reinstatement Rights](#)

RI - Rhode Island has issued updated notices

- [Sick and Safe Leave Notice](#) now clarifies that most employees can earn up to 40 hours of leave per year, at a rate of one hour for every 35 hours worked. Leave may be used for personal illness, medical appointments, domestic violence issues, or to care for a household member, with paid leave required for employers with 18 or more workers.
- [Discrimination/Fair Employment Notice](#) has been revised to include a new Voice Relay/711 contact number.

PA – updated [Veteran Benefits and Services](#) Notice. Employers with at least one workplace in the state that has 51 or more full-time employees must post this Notice in a conspicuous place where employees can access it which includes an employer's intranet or other employee shared technological platform.

MN – new [Paid Family & Medical Leave Notice](#) – to be provided to Employees by Dec 1 and New Hires, going forward

DE – new [Paid Family & Medical Leave Notice](#) (program effective Jan 1, 2026). Applicable for employers with 10 or more employees.

Aug/Sept

AR – [Veterans' Benefits & Services Notice](#) must be provided/posted by all employers with 50 or more full time equivalent employees

FL – updated [Minimum Wage Notice](#) eff 9/30/25

KY – updated [Safety and Health on the Job Notice](#)

LA – updated [LA Earned Income Credit Notice](#)

NE – newly released [NE Paid Sick Leave Notice](#)

MD – updated [Maryland OSHA Notice](#)

MO – updated [Missouri Minimum Wage Notice](#) (8/28/25-12/31/2025) & **removing** of the **Earned Paid Sick Time Notice**

NJ – updated [NJ Family Leave Insurance Notice](#) (9/25)

OK – updated [Unemployment Insurance Benefits Notice \(OES-044\)](#)

RI – updated [Sick and Safe Leave Notice & Discrimination/Fair Employment Notice](#)

UT – updated [Workplace Safety and Health \(UOSH\) Notice](#)

VA – updated [Job Safety and Health Protection \(VOSH/OSHA\) Notice](#). Additionally, the following have also been updated: Unemployment Insurance, Accommodations for Pregnant Employees, Child Labor Law, Employer's Liability & Workers' Compensation, Employment Protections for Victims of Crime, Healthcare Whistleblower Protection, Parental and Family Leave, Safety Records Notice, Sexual Harassment Notice, Earned Sick Time Act, and Workers' Compensation Reinstatement Rights. Access State released Labor Notices/Posters [HERE](#)

WA – updated [Job Safety & Health \(DOSH\) Notice](#)

July

CA – The California Civil Rights Department (CRD) released its [Survivors of Violence & Family Members of Victims' Rights to Leave & Accommodations Notice](#) *employee notice* triggering a new compliance obligation for all California employers regarding the rights of employees who are victims of qualifying acts of violence.

IA - The "[Your Rights Under the Iowa Minimum Wage Law](#)" notice has been revised to reflect updates to the enforcing agency's name, contact information, and overall formatting. Enforcement authority has changed to the Iowa Department of Inspections, Appeals, and Licensing Wage and Child Labor Unit, and the contact



address, phone number, and website have been updated accordingly. The minimum wage rates remain unchanged on the revised notice.

MN – State's [Paid Leave require Notice](#) has been published

NC – updated Notices: [Wage & Hour Notice to Employees](#) and the [Occupational Safety and Health \(OSH\) Notice to Employees](#).

NV – updated labor notices to include [Minimum Wage Notice](#), [Daily Overtime Notice](#), [Rules to be Observed by Employers](#)

RI - updated [Written Notice of Employee Rights](#). State law protects employees and applicants from discrimination based on pregnancy, childbirth, menopause and related conditions.

VT –

new [Meals & Lodging Allowance Notice](#) outlines the specific amounts employers may deduct from employee wages for meals and lodging that are actually provided and voluntarily accepted.

updated [Parental & Family Leave Notice](#) reflects expanded unpaid leave protections under Vermont's Parental and Family Leave Act. Employees are now entitled to unpaid leave for a broader range of reasons.

WY – New [Non-Compete Agreements Labor Notice](#) – reflective of 7.1.25 state ban on most non-compete agreements entered into on or after this date.

June

CA – Various, local Min Wage Notices (See California Section of June HR WIRE)

DC - Effective July 1, 2025, the District of Columbia minimum wage will increase from \$17.50 to \$17.95 per hour, and the tipped minimum wage will rise from \$10.00 to \$12.00 per hour. These updates impact the following required notices: the [D.C. Minimum Wage Amendment Act](#), the [D.C. Living Wage Act Notice](#), and the [D.C. Universal Paid Leave Act](#).

NY City – The State has released an updated [Paid Safe and Sick Leave Notice](#) to reflect the new Paid Prenatal Leave employee benefit. The revised notice now includes the right to up to 20 hours of paid leave per year for prenatal medical appointments, in addition to existing paid safe and sick leave entitlements.

OR – updated labor notices: <https://www.oregon.gov/boli/employers/Pages/required-worksite-postings.aspx>

- [Minimum Wage Notice](#)
- [Breaks, Meals & Overtime Notice](#)
- [Equal Pay Notice](#)
- [Family Leave Notice](#)
- [Sexual Harassment & Domestic Violence Notice](#)

May

LA – updated [Louisiana Unemployment Insurance Notice](#)

MA – updated [Fair Employment Notice](#) and [Unemployment Insurance Notice](#)

VA – As of July 1, 2025, employers are required to post a copy of Virginia Code § 40.1-28.7:8 or an approved summary in the workplace as the result of revised state law regarding non-competes broadening the definition to include all employees eligible for overtime under federal law, regardless of their income level. Access to the state's covenants accessible [HERE](#). Attached file will serve as Notice. Impacted employers should post the Notice by the effective date.

WA - The Washington Workers' Compensation Notices have been updated to reflect recent changes. Beginning July 1 2025, physician assistants (PAs) are now recognized as qualified healthcare providers for state-funded Workers' Compensation claims. For claims related solely to mental health conditions, licensed psychologists may also serve as the attending provider. Additionally, several key web addresses on the notice have been updated to ensure access to current resources and information.

[Work Comp Notice – State Insured Businesses \(WA04E\)](#)

[Work Comp Notice – Self-Insured Businesses \(WA05E\)](#)



April

- ME – 1) Revised [Paid Family and Medical Leave Notice](#) now includes the expanded list of qualifying reasons for taking family leave.
- 2) newly released [Sexual Harassment Education and Training Notice](#)
- MI – **New!** Effective April 2, 2025, Michigan employers are required under HB 5736 to display the new [Resources for Michigan Veterans Notice](#).
- MO – **Reminder** State's [Earned Sick Time Notice](#) to be posted/distributed by **April 15**
- NYC – **New York City** – Updated [Pregnancy Accommodation Notice](#) with Paid Lactation Break information, post or provide may **May 8**

Mar

- IL - Illinois issued an updated [Victim's Economic Security and Safety Act \(VESSA\) Notice](#), featuring several key changes. The Notice and Certification section has been revised with clarified language, and new details have been added regarding eligibility for employees who have worked certain hours in the past 12 months. Additionally, a Complaints section has been introduced, including a contact phone number, and the Confidentiality section has been revised. Double check to ensure your Labor Notices include this updated version or replace with the updated Notice.
- MI – Reminder State's [Earned Sick Time Notice](#) to be distributed to MI employees by March 23.
- MO – Reminder State's [Earned Sick Time Notice](#) to be posted/distributed by April 15

Feb:

- CA – Updated Family & Medical Leave & Pregnancy Disability [Employee Leave Poster](#)
NOTE: Employers should distribute Notice annually & provide a copy of Notice when applicable leave is known by the employer or an employee raises questions about Leave) Applicable for employers with 5 or more employees.
- DC – **Employers must post the state's Universal Paid Leave/ Paid Family Leave Act Notice by Feb 2025 AND provide the Notice to Covered Employees - [Paid Family Leave Notice](#)** (previously published)
- MA – Updated [Veterans Services Poster](#) (distributed/posted by employers with 51 or more full-time employees.) and [Earned Sick Time Notice](#)
- MI – updated [Earned Sick Time Act Notice](#) & [Minimum Wage Notice](#)
- RI – New [Veterans Benefit & Service Poster](#) (distributed/posted by employers with 51 or more full-time equivalent employees.
- NV – updated notices:
https://labor.nv.gov/Employer/Employer_Posters/#Required%20Notices%20and%20Bulletins Rules to be Observed by Employers Notice; Domestic Violence Leave; AB 307 Training Programs Notice; [The Pregnant Workers' Fairness Act Notice](#); [Nevada OSHA Notice](#);
- CT – updated [Discrimination is Illegal](#) Notice

Jan:

- IL – [Min Wage Notice](#), [Pay Transparency Notice](#), [E-Verify Notice](#)
- NE - [Nebraska Equal Pay](#) regulations and an updated office address.
- MI – [Paid Sick Leave Model Notice](#)
- CA – [Model Whistle Blowers Notice](#)

Employee Handbook Policy Updates (2025 YTD):

- Revised EEO Statement Released **January 2025**

Resources:

Feb:



- HR Compliance Overview: Best Practices for Reducing Wage & Hour Claims
- HR Compliance Overview: Best Practices for Immigration Raids
- SHRM Checklists: What to Do to Prepare For & During an ICE Immigration Visit

Updated State Handbook Addendums

Released **December 2025**

- **CA State Handbook Addendum**
 - Sick & Safe Leave - policy language cleaned up and made more concise, includes newly covered reasons just as juror, witness and crime victim applicability
 - Local Sick & Safe Time Policies - Berkeley, Emeryville, Los Angeles, Oakland, San Diego, San Francisco, Santa Monica & West Hollywood - edited to also clean up leave reasons, make more concise and newly covered reasons just as juror, witness and crime victim applicability
 - Paid Family Leave Policy- edited to remove language no longer applicable.
- **DE State Handbook Addendum**
 - New policy added: State Paid Family Medical Leave - effective 1.1.26 for employers with 25 or more employees in DE.
- **IL State Handbook Addendum**
 - Lactation Break Policy language revised
 - **LEAVE FOR DOMESTIC, SEXUAL AND GENDER VIOLENCE OR OTHER CRIMES OF VIOLENCE** policy revised
 - **Blood & Organ Donation Leave** policy updated to include protected leave for part time employees under the organ donation aspect of policy
 - New Policy added: **FAMILY NEONATAL INTENSIVE CARE LEAVE** ahead of 6.2026 enactment effective date
 - Cook County Paid Leave policy revised to include labor notice image
- **NH State Handbook Addendum**
 - New policy added: LEAVE OF ABSENCE TO ATTEND MEDICAL APPOINTMENTS FOR CHILDBIRTH, POSTPARTUM CARE, AND INFANT PEDIATRIC MEDICAL APPOINTMENTS
 - New Policy added: Leave for Military Spouses (in effect 1.1.26)
- **NY State Handbook Addendum**
 - NY City's temporary Schedule change Policy – commentary added to Addendum, no policy changes
- **ME State Handbook Addendum**
 - Paid Family & Medical Leave Policy added (For Employers using a Private Plan) ahead of 5.2026 entitlement effective date.
- **MN State Handbook Addendum**
 - Updated Minneapolis & St. Paul Sick & Safe Time policy language
 - New Policy: Meal & Rest Breaks (eff 1.1.26)
- **OR State Handbook Addendum**
 - Updated Sick Time Policy language to allow for such to be used for Blood, Bone Marrow and Organ Donation (eff 1.1.26)
- **WA State Handbook Addendum**
 - New Disclaimer added
 - Updated policy language - Paid Sick Leave Policy
 - Updated LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, STALKING, OR HATE CRIME Policy



- Pregnancy Accommodation Policy – commentary added addressing 1.1.2027 effective date of Paid lactation breaks for all employers

Released **November 2025** – NONE

Released **October 2025**

- **CT State Handbook Addendum** –
 - Changes incorporated to addressed violence protection policy updated to reflect policy clarification language additions and expanded protections for victims of sexual assault and human trafficking
- **Maryland State Handbook Addendum** –
 - MONTGOMERY COUNTY EARNED SICK AND SAFE LEAVE POLICY - commentary added along with updated language under the Enforcement & Retaliation section of this policy
 - EARNED SICK AND SAFE LEAVE Policy updated language added to Enforcement & Retaliation section of this policy
- **Minnesota State Handbook Addendum** –
 - Update MN Paid Leave Policy added ahead of 1.1.26 effective date
- **RI State Handbook Addendum** -
 - Paid Temporary Caregiver Insurance Benefits and Leave policy updated policy language ahead of 1.1.2026 release to allow for “sibling” under family members.

Released **Aug/September 2025**

- **AK State Handbook Addendum**
 - Edited State Paid Sick Leave Policy to provide clarification language to the policy
- **CT State Handbook Addendum**
 - *Updated LEAVE FOR FAMILY VIOELCE, DOMESTIC VIOLENCE OR SEXUAL ASSAULT Policy include* expanded protections for victims of sexual assault and human trafficking effective 10/1/25
- **IL State Handbook Addendum**
 - Updated Military Leave policy to address changes including Military Funeral Honors Detail provisions effective 8/2025
- **MD State Handbook Addendum**
 - New Family Deployment Leave Policy added
 - Updated Commentary to provide additional clarity as to applicability for small employers to State’s Parental Leave Policy
- **ME State Handbook Addendum**
 - Updated Earned Paid Leave policy updated to reflect new allowance of employees to be able to accrue up to 40 hrs./yr and carry over such into a new calendar year; This new change goes into effect 9/24/25.
- **MN State Handbook Addendum**
 - Updated the St Paul Sick & Safe Policy to include the City’s Labor Poster/Notice within the Policy
- **MT State Handbook Addendum**
 - New Emergency Services Leave Policy added effective 10/1/2025
- **NE State Handbook Addendum**
 - New Paid Sick Leave Policy ahead of the 10/1/25 effective date of state regulatory provision.
- **NV State Handbook Addendum**
 - New Civil Air Patrol Leave Policy effective 10/1/25



- **PA State Handbook Addendum**

- Philadelphia Sick Time Policy verbiage updated
- Pittsburgh Paid Sick Policy verbiage updated ahead of 1/1/2026 effective date
- Philadelphia Paid Sick & Allegheny County Paid Sick Time clarifying policy language added

Released **July 2025**

- **AK State Handbook Addendum**

- Advisory Notes were included in the new State Paid Sick Leave Policy when published. This updated version removes the Advisory Note from the policy.

- **DE State Handbook Addendum**

- New EEO Policy specific to the state (for employers with 4 or more employees in the State) addressing the employer obligation for nondiscrimination for "Military Status" defined as by the state to include dependents, including spouses, of servicemembers.

- **MN State Handbook Addendum**

- Updated Family Medical Leave Policy removing MN specific requirements which are no longer applicable.

- **RI State Handbook Addendum**

- New Policy added replacing former Pregnancy Accommodation Policy- Accommodation of Pregnancy-related and Menopause-related Conditions
- Paid Temporary Caregiver Insurance Benefits & Leave Policy updated ahead of **1.1.26** changes

Released **June 2025**

- **CO State Handbook Addendum**

- ***Paid Family Medical Leave Policy*** updated to reflect 1.1.2026 effective updates providing an additional 12 weeks of leave for newly applicable reasons and removal of the benefit cap amount under the "Use of Leave" policy section

- **MN State Handbook Addendum**

- ***State Sick & Safe Leave/Paid Sick Leave Policy*** updated to reflect the recently amended regulations (see under the Minnesota header for details)

- **NY State Handbook Addendum**

- ***NY Paid Parental Leave Policy*** updated to include New York City reference language updates
- ***NYC Sick & Safe Time Policy*** updated to include new clarification language under the "Additional Paid Parental Leave" section of the policy

- NH
- VT
- MI

- Released **May 2025**

- AK
- IL
- IN
- NY
- WA

- Released **April 2025**

- AL
- AZ
- AR
- DC



- MI
- MO
- WA

- **Released January 2025:**

- Federal EEO Policy recommended update
- California
- Colorado
- Connecticut
- Illinois
- Massachusetts
- Michigan
- Montana
- New York
- Oregon
- Rhode Island
- Washington
- Wisconsin

December Alerts/Reminders:

Benefit Plans Starting December 1 - Employer's CMS Part D Creditable Coverage Online Disclosure – January 31, 2025

Looking ahead to January 2026 – Updated Benefit Limits & Obligations

Employers should ensure their HRIS/Payroll system correctly reflects annual benefits-related changes and prepare for upcoming obligations:

- Flexible Spending Account & Dependent Care Limits & Extensions
- Health Savings Accounts Contribution Limits and High-Deductible Health Plan Qualifications
- Social Security Taxable Limit Increases
- Any Retirement Plan Limits
- Post/Distribute updated Federal and State Labor Notices
- W-2 Annual Form Provision & Reporting
- 1095 Annual Form Provision and Reporting

USCIS Updates Certain Validity Periods for EAD (Employment Authorization Documents)

On Dec. 4, 2025, the U.S. Citizenship and Immigration Services (USCIS) issued policy guidance in its [Policy Manual](#) updating the maximum validity periods for Employment Authorization Documents (EADs), also known as Form I-766, for certain EAD categories.

Based on the USCIS' announcement, the maximum validity period for initial and renewal EADs will be changed from 5 years to 18 months for several categories of "aliens," a term used by the USCIS, including those who:

Are admitted as refugees;

Are granted asylum;

Are granted withholding of deportation or removal;

Have pending applications for asylum or withholding of removal;

Have pending applications for adjustment of status under INA 245; and

Have pending applications for suspension of deportation, cancellation of removal or relief under the Nicaraguan Adjustment and Central American Relief Act.



This change affects foreign workers with applications for employment authorization that are pending or filed on or after Dec. 5, 2025, and based on any of the above categories.

Employer Informational Takeaway: This change will likely result in more EAD renewals for employers relying on foreign workers. This will likely significantly increase the number of Forms I-756 the USCIS receives, resulting in longer processing times and potential backlogs. As a result, employers must plan accordingly to avoid disruptions in work authorization.

New! US Postal Services Changes Regarding Postmark Date System – Eff Dec 24, 2025

The United States Postal Service (USPS) has adopted a final rule ([FR Doc. 2025-20740](#)) adding Section 608.11, "Postmarks and Postal Possession," to the Domestic Mail Manual (DMM). The rule formally defines postmarks and identifies the types of markings that qualify as such. Its primary purpose is to improve public understanding that while a postmark confirms the USPS possessed a mail piece on the date inscribed, that date does not necessarily align with the date the USPS first accepted possession of the item. The rule clarifies that the USPS does not postmark all mail in the ordinary course of operations and that the absence of a postmark does not imply the USPS did not accept custody.

Impact on Postmarking Timing The rule clarifies that the date displayed on a machine-applied postmark represents the "date of the first automated processing operation" performed at a processing facility, rather than the date the mail was dropped off.

- **Potential Delays:** Because most postmarks are applied at processing facilities, the date inscribed may be later than the date the mail piece was first accepted by the USPS. This discrepancy is expected to become more common due to the implementation of the "Regional Transportation Optimization" (RTO) initiative and the adoption of "leg-based" service standards.
- **Operational Reality:** The rule codifies the operational reality that postmarking operations often cross calendar days or occur after transportation from a retail unit, **meaning the postmark date is not a "perfectly reliable indicator" of the date of mailing.**

Ensuring a Postmark on the Date of Delivery To assure a postmark is applied on the same day a document is delivered to the USPS, individuals must utilize specific retail services. The final rule outlines the following methods:

- **Request a Manual Postmark:** Customers may present a mail piece at a retail counter and request a "manual (local) postmark". This postmark is applied at the time of acceptance, so the date aligns with the date the USPS took possession.
- **Postage Validation Imprint (PVI):** When a customer pays for postage at a retail counter, the PVI label applied by the employee also indicates the date of acceptance.
- **Certificates of Mailing:** Customers may purchase a Certificate of Mailing, or use Registered or Certified Mail, to obtain a receipt that serves as evidence of the date the item was presented for mailing.

2026 Federal EEO Trends

The U.S. Equal Employment Opportunity Commission (EEOC), other federal agencies and the executive branch have significantly shifted their priorities.

Employers can expect these changes in federal equal employment opportunity (EEO) trends to both continue and accelerate throughout 2026. In 2026, employers can expect to see the EEOC prioritize the following issues:

- Diversity, equity and inclusion (DEI) motivated race and sex discrimination;
- Reverse discrimination;
- Sex discrimination (including a shift away from protections for sexual orientation and gender identity);
- Pregnancy discrimination and accommodations;
- National origin discrimination, with a particular focus on anti-American bias; and



- Religious discrimination.

In addition, in October 2025, the EEOC restored its quorum, so employers may anticipate increased rulemaking and guidance throughout 2026.

Executive Order Restricting State Regulations of Artificial Intelligence

Recently, a number of states have passed legislation to regulate the use and development of AI, including the use of AI in employment decision-making. For example, California, Illinois, Texas and Colorado have enacted laws restricting the use of AI that results in discrimination based on an employee's protected trait. Further, Congress recently attempted but failed to pass legislation that would ban states from enacting AI regulations. On Dec. 11, 2025, President Donald Trump issued an executive order (EO) titled [Ensuring a National Policy Framework for Artificial Intelligence](#). The EO aims to restrict states from implementing their own laws and regulations regarding the use and development of artificial intelligence (AI).

EO Highlights

The EO argues that excessive state regulation restricts AI innovation, makes compliance more challenging, embeds ideological bias within AI models and impinges on interstate commerce. The Trump EO states its policy of global AI dominance through a minimally burdensome national standard. To achieve this, the EO calls for:

- The establishment of an AI Litigation Task Force within 30 days of the EO to challenge state AI laws inconsistent with such policy;
- The secretary of Commerce, within 90 days of the EO, to publish an evaluation of state laws in conflict with such policy;
- The secretary of Commerce, within 90 days of the EO, to issue a policy notice specifying the conditions under which states are eligible for funding under the Broadband Equity Access and Development Program and to stop funding to states with onerous AI laws;
- The Federal Communications Commission, within 90 days of the secretary of Commerce's publication of its state law evaluation, to determine whether to adopt a federal reporting and disclosure standard for AI models that preempts state laws;
- The Federal Trade Commission, within 90 days of the EO, to issue a statement explaining when state laws requiring alterations to truthful AI outputs are preempted by the ban on deceptive acts or practices affecting commerce; and
- A recommendation for federal AI legislation that preempts conflicting state AI laws.

Employer Takeaway: Employers, particularly those in states with laws regulating AI in the workplace, should prepare for uncertainty following the EO. The EO is likely to face legal challenges by states with existing AI legislation who may argue that the EO is an infringement on states' rights. Therefore, employers should monitor the status of applicable state AI laws and further federal actions.

Employment Policies to Review Ahead of 2026

Employee handbooks serve as a foundational tool for shaping workplace culture, guiding employee behavior and safeguarding organizations against legal exposure. Yet too often, employers overlook the importance of keeping employment policies current.

When employee handbooks are not regularly reviewed and updated, organizations can face increased exposure to legal risks and liabilities. In today's rapidly evolving environment, where complex employment laws are constantly changing, employers must stay informed about regulatory developments that may impact their operations. The start of the year presents an opportune time for employers to review and update their policies to ensure compliance and mitigate potential risks. Important legal developments in 2025 include:



- Employee leave laws;
- Pay transparency;
- Captive audience bans;
- Increased reverse discrimination claims;
- Religious accommodations;
- Artificial intelligence (AI) legislation; and

See attached resource to read more.

2026 Has 27 Bi-Weekly Pay Periods: What That Means for Employers

In 2026, employers with bi-weekly payroll schedules will encounter a 27-pay-period year. Advance planning can help avoid unintended payroll and budgeting impacts.

What Is the Issue?

An employee with an annual salary is automatically and regularly paid 1/26th of that annual salary on a bi-weekly payroll (52 divided by 2). In a year with 27 bi-weekly pay periods, that same structure can result in an additional payment and therefore a higher annual salary. This is lawful. The question for employers, however, is whether that additional payroll expense is accounted for in the company budget. If not, and you want options, access a recent blog post published by Greenberg Glusker Fields Claman & Machtinger LLP [HERE](#)

Annual Gag Clause Attestation – Filing Deadline Dec 31, 2025

Group health plans and health insurance issuers offering group or individual health insurance coverage must annually submit a Gag Clause Prohibition Compliance Attestation (GCPCA) to the Department of Health and Human Services (HHS), which is collecting the attestations on behalf of the Departments of Labor, HHS, and the Treasury (the Departments).

Which entities are required to submit a Gag Clause Prohibition Compliance Attestation?

- health insurance issuers offering group health insurance coverage;
- health insurance issuers offering individual health insurance coverage, including student health insurance coverage and individual health insurance coverage issued through an association; and
- fully-insured and self-insured group health plans, including ERISA plans, non-Federal governmental plans and church plans subject to the Code.
- Not enforced against plans that consist solely of account based HRAs. This includes individual coverage HRAs for which the issuer of the individual coverage will be required to submit the attestation. ICHRAs are exempt.
- Enforcement and penalties have not been defined outside of possible Plan Fiduciary and ERISA violations for noncompliance. Good faith relief ended in 2022.

WHAT NOW?

- Be aware of your carrier / TPA / PBM approaches and deadlines. EACH ISSUER and CARRIER IS DIFFERENT
- Confirm that your carrier / TPA / PBM contracts in effect for 2025 are in compliance through publicly distributed statements or in writing directly (client communications).
- Confirm if your carriers are going to submit the required Group Health Plan attestation on behalf of your Group Health plan in addition to their own attestation.

Look for or request communication from your Medical/PBM carriers asap.

Still unsure what is next? Contact your [Benefits Broker](#) to learn more about this benefits-related obligation.



November Alerts/Reminders:

Reducing Risk at Holiday Parties

Holiday parties offer a great opportunity to connect with coworkers and colleagues, and yet, everyone has heard stories of holiday parties gone bad.

Employers should consider the risks of providing or permitting the consumption of alcohol. A party can be made safer by hiring professional bartenders who know how to spot and diplomatically cut off people who've had enough. Distributing drink tickets to limit consumption is another option, and offering free rides home for people who have overindulged is also another good idea to protect employees and the organization.

Event coordinators and vendors should ensure that intoxicated individuals aren't served as employers could potentially be subject to liability if they allow employees to be overserved and there's a car accident. As mentioned, employees who are intoxicated shouldn't be permitted to drive.

Holiday parties may also increase the risk of harassment complaints, as the celebration and alcohol consumption tends to lower inhibitions. Be vigilant in investigating any claim of inappropriate harassment arising out of a holiday party. Additionally, managers should be reminded that if they see inappropriate behavior at a celebration, they have the same obligation to report and correct the issue.

Attached is a Risk Mitigation Checklist which may be helpful.

Benefit Plans Starting **November 1 - Employer's CMS Part D Creditable Coverage Online Disclosure – **December 31, 2025****

EEOC Releases Guidance on National Origin Discrimination and Anti-American Bias

On Nov. 19, 2025, the U.S. Equal Employment Opportunity Commission (EEOC) released new materials on national origin discrimination, including a technical assistance document, [Discrimination Against American Workers Is Against the Law](#), and updates to its national origin [webpage](#). The new materials reflect the EEOC's efforts to combat national origin discrimination, with a focus on anti-American national origin bias.

Overview of New Guidance

Title VII of the Civil Rights Act prohibits employers with 15 or more employees from discriminating against applicants and employees on the basis of their national origin. The EEOC technical guidance provides guidance specifically on national origin discrimination against American workers in favor of foreign workers. The guidance provides examples of discrimination against Americans in the workplace, including:

Discriminatory job advertisements, including ads that say the employer prefers or requires applicants from a particular country or with a particular visa status;

Disparate treatment, including discrimination in the terms, conditions or privileges of employment, including but not limited to hiring, firing, job assignments, compensation, training, fringe benefits, promotion and demotion. Examples of disparate treatment include firing American workers who are on the "bench" between assignments at a higher rate than employees on guest visas or making it more difficult for applicants from one national origin to apply for positions;

Harassment based on national origin, including unwelcome remarks or conduct based on national origin.

Harassment is illegal when it results in an adverse change to a term, condition or privilege of employment, or is so frequent or severe as to be intimidating, hostile or abusive; and



Retaliation by an employer because an individual engaged in protected activity, such as objecting to national origin discrimination, participating in an investigation or filing a charge.

The guidance further clarifies that Title VII's protections apply across all terms and conditions of employment, including hiring, firing, job assignments, training, benefits, and layoffs. The guidance further states that business reasons, including customer or client preference, cost of labor or beliefs regarding the productivity of certain groups, do not excuse an employer's decision to hire foreign workers over American workers.

Given the heightened scrutiny, employers are encouraged to review and update their policies, recruiting practices, compensation systems, and workplace conduct standards to ensure they do not favor workers of particular national origins or visa statuses.

Rhode Island and Massachusetts Have Special Laws Regarding Work on Holidays

While many employers offer most or all federal holidays off work for their employees, federal law does not require private employers to provide days off for traditionally recognized holidays. That said, some states have holiday regulatory requirements applicable to holidays.

Specifically, Rhode Island requires premium pay at a rate of time and a half for most employees if they are required to work on New Year's Day, Memorial Day, Juneteenth, Independence Day, Victory Day, Labor Day, Indigenous Peoples/Columbus Day, Veterans Day, Thanksgiving or Christmas. This holiday premium pay requirement does **not** apply to doctors, dentists, attorneys, accountants, supervisory employees, hotel and restaurant workers and a few other groups of employees.

Additionally, Massachusetts does not require premium pay, but its Blue Laws place restrictions on when employees can work on holidays. Retail workers are not allowed to work on Columbus Day (before noon), Veterans Day (before 1 pm), Thanksgiving, or Christmas unless the police have granted their employer a permit. Businesses can operate without a permit on New Year's Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day (after noon), and Veterans Day (after 1 pm), but retail employees have the right to refuse to work on those dates. Businesses may operate without restriction on Martin Luther King Day, President's Day, Evacuation Day, Patriots' Day, and Bunker Hill Day. Manufacturers face similar restrictions under the Blue Laws, but their schedule is slightly different. No work without a permit is allowed on Memorial Day, Independence Day, Labor Day, Columbus Day (before noon), Veterans Day (before 1:00), Thanksgiving, and Christmas.

Update: "One Big Beautiful Bill Act" (OBBBA) IRS Gives Employers Relief on 2025 Tip & Overtime Reporting

Since the enactment of the "One Big Beautiful Bill Act" (OBBBA) on July 4, 2025, employers have awaited guidance on recordkeeping and reporting obligations related to the law's "no tax on tips" and "no tax on overtime" deductions. The IRS has now announced that, for the 2025 tax year, employers will not be penalized for not separately reporting tips or overtime pay on tax forms, giving organizations time to adjust to these significant changes. While this transition relief eases immediate compliance concerns, new reporting requirements will take effect in 2026, and employers should use this period to review payroll systems and recordkeeping practices. Employers are also encouraged to help employees claim available deductions by providing information about their tips and overtime and should stay alert for further IRS guidance as implementation continues.

Recap of the Tip and Overtime Deductions

The "no tax" term is a bit misleading. Both the "no tax on tips" and "no tax on overtime" provisions actually create limited income tax deductions for qualifying individuals, rather than making tips or overtime entirely tax-free. Importantly, these deductions do not affect the taxability of tips or overtime pay for Social Security and Medicare (FICA) taxes.



As discussed in our (Ackerman, LLP's) earlier blog post [here](#), the OBBBA introduced two new deductions for individuals, which also raise several compliance questions for employers:

- **No Tax on Tips:** Employees (and self-employed individuals) in occupations that "customarily and regularly" receive tips may claim an above-the-line deduction for up to \$25,000 in "qualified tips" from their taxable income.
- **No Tax on Overtime:** Workers may deduct up to \$12,500 in "qualified overtime compensation" from their income subject to federal income tax (\$25,000 for joint filers).

The OBBBA left several questions unanswered, including (1) how should employers account for and report a worker's qualified tip amount; (2) which occupations qualify for the tip deduction; and (3) how should employers account for and report qualified overtime compensation? The IRS is working to address these uncertainties, which, if left unaddressed, have the potential to frustrate employers preparing for the 2026 tax season. Notably, the OBBBA allows employers to "approximate" the amount of "qualified overtime compensation" using a "reasonable method," but further IRS guidance is still pending on what constitutes a "reasonable method."

On November 5, 2025, the IRS issued [Notice 2025-62](#), providing penalty relief to employers for tax year 2025 relating to the new reporting requirements for qualified tips and qualified overtime compensation under the OBBBA. This means employers will not be penalized for failing to separately report qualified tips or the occupation of the workers receiving such tips, or for failing to report the total amount of qualified overtime compensation. In its [news release](#), the IRS acknowledged that "employers and other payors may not currently have the information required to be reported under the [OBBBA], or the systems or procedures in place to be able to correctly file the additional information with the IRS, or SSA in the case of a Form W-2, and provide it to employees and other payees."

The IRS encourages employers to provide employees, particularly those in tipped occupations, with their occupation codes and a separate accounting of cash tips, so employees can claim the deduction for qualified tips for tax year 2025. The IRS likewise encourages employers to provide employees with separate accountings of overtime compensation, so that they can claim the deduction for qualified overtime compensation for tax year 2025. Employers can make the information available to employees through an online portal, written statements, or (in the case of qualified overtime compensation) in box 14 of Form W-2.

Qualifying Occupations and Qualified Tips

To qualify for the "qualified tip" deduction under the OBBBA, a worker must be in an occupation that "customarily and regularly" receives tips and must receive qualified tips. On September 19, 2025, the IRS issued [proposed regulations](#) identifying nearly 70 occupations that qualify, grouped into eight categories: (1) beverage and food service; (2) entertainment and events; (3) hospitality and guest services; (4) home services; (5) personal services; (6) personal appearance and wellness; (7) recreation and instruction; and (8) transportation and delivery.

The IRS explained that the proposed list was drafted "based on a review of IRS data, legislative history, and survey data regarding tipped occupations and the presence of certain factors demonstrating that those occupations customarily and regularly received tips." Notably, certain occupations, such as dishwashers, are included even though they do not typically interact with customers for purposes of the Fair Labor Standards Act (FLSA). The IRS explained that "certain occupations that may not involve direct interactions with customers should still be considered occupations that customarily and regularly received tips if employees in such occupations participated in tip-sharing arrangements such as tip pooling or tip-outs with employees who do interact with customers." Employers should review the preliminary list to determine whether they have employees who meet the proposed definition of "occupations that customarily and regularly received tips."

Other important limitations on the qualified tips provision include:



1. Voluntary Tips Only: "Qualified tips" must be paid voluntarily by the customer and not subject to negotiation. This means that qualified tips do not include automatic service charges (i.e., an automatic added service charge for large parties if there is no option for the customer to disregard or modify it).
2. Illegal Activity Exclusion: Any amount received for illegal activity, prostitution services, or pornographic activity is not a qualified tip.
3. Income Phase-Out: The deduction phases out for taxpayers with modified adjusted gross income over \$150,000 (\$300,000 for joint filers).
4. Certain Service Business Excluded: Certain specified service trade or business activity is excluded from this provision. Those trades or businesses include: (a) performance of services in the fields of health, law, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees or owners, or (b) those involving the performance of services that consist of investing and investment management, trading, or dealing in securities, partnership interests, or commodities.

On August 5, 2025, the IRS issued a [news release](#) announcing that Forms W-2 and 1099 for tax year 2025 would not be updated to account for the changes implemented by the OBBBA. Thus, employers are to use the current Forms W-2 and 1099 for tax year 2025, which do not have separate boxes for reporting qualified tips or qualified overtime compensation. Employers should prepare to comply with updated reporting requirements for tax year 2026 and ensure adequate systems are in place to track this type of compensation starting on January 1.

In fact, the IRS has already released a draft Form W-2 for tax year 2026, which is intended to address the new reporting requirements under the OBBBA for tipped and overtime workers. The draft Form W-2 includes a new Box 14b for employers to report the employee's qualifying occupation (a "Treasury tipped occupation code"). The draft instructions direct employers to use Box 12 to report the employee's "qualified tips" using code "TP" and "qualified overtime compensation" using code "TT." The draft form is for informational purposes only and should not be used for tax year 2025, but it provides insight into future reporting requirements and can help employers plan system changes.

The IRS is expected to continue releasing guidance on the OBBBA requirements. In the meantime, employers should continue to maintain accurate records and plan ahead for new tracking and reporting requirements. While employers can avail themselves of the penalty relief in Notice 2025-62 for not reporting qualified tips or qualified overtime compensation on the relevant Forms W-2 and/or 1099 for tax year 2025 (as long as the forms are otherwise accurate, complete, and timely), employers should still make this information available to employees. Because not all tips or overtime may qualify, employers should review existing tip and overtime policies in light of the OBBBA and recent IRS guidance to determine applicability.

-November 18, 2025 Blog Post Article published by Ackerman, LLP

Annual Gag Clause Attestations – Deadline **December 31, 2025**

Health plans and issuers must annually submit an attestation of their compliance with the gag clause prohibition to the Departments. Attestations are due on Dec. 31 of each following year, covering the period since the last attestation. **The deadline for submitting the next attestation is Dec. 31, 2025.**

October Alerts/Reminders:

DHS Ends Automatic Extension of Employment Authorization

The Department of Homeland Security has announced an [interim final rule](#) ending the practice of automatically extending employment authorization documents for aliens filing renewal applications in certain employment authorization categories. With this rule, DHS prioritizes the proper screening and vetting of aliens before extending the validity of their employment authorizations.

Aliens who file to renew their EAD on or after Oct. 30, 2025, will no longer receive an automatic extension of their EAD. There are limited exceptions to this rule, including extensions provided by law or through a Federal Register notice for



TPS-related employment documentation. Ending automatic extensions of EADs results in more frequent vetting of aliens who apply for employment authorization to work in the United States. Reviewing an alien's background more often will enable U.S. Citizenship and Immigration Services (USCIS) to deter fraud and detect aliens with potentially harmful intent so they can be processed for removal from the United States.

"USCIS is placing a renewed emphasis on robust alien screening and vetting, eliminating policies the former administration implemented that prioritized aliens' convenience ahead of Americans' safety and security," said USCIS Director Joseph Edlow. "It's a commonsense measure to ensure appropriate vetting and screening has been completed before an alien's employment authorization or documentation is extended. All aliens must remember that working in the United States is a privilege, not a right."

USCIS recommends aliens seek a timely renewal of their EAD by properly filing a renewal application up to 180 days before their EAD expires. The longer an alien waits to file an EAD renewal application, the more likely it is that they may experience a temporary lapse in their employment authorization or documentation.

The interim final rule does not affect EADs automatically extended before Oct. 30, 2025.

For more information on applications for employment authorization, visit USCIS' [Employment Authorization Document page](#).

Benefit Plans Starting **October 1 - Employer's CMS Part D Creditable Coverage Online Disclosure – **November 30, 2025****

Annual Gag Clause Attestation – Deadline **December 31, 2025**

Health plans and issuers must annually submit an attestation of their compliance with the gag clause prohibition to the Departments. Attestations are due on Dec. 31 of each following year, covering the period since the last attestation. **The deadline for submitting the next attestation is Dec. 31, 2025.**

The attestation requirement applies to fully insured and self-insured group health plans, including ERISA plans, nonfederal governmental plans and church plans.

Additionally, this requirement applies regardless of whether a plan is considered "grandfathered" under the Affordable Care Act. However, plans that provide only excepted benefits and account-based plans, such as health reimbursement arrangements, are not required to submit an attestation.

Also, employers should review what actions they may need to take to comply with the gag clause attestation requirement. Employers with fully insured health plans do not need to provide an attestation if their plan's issuer provides the attestation. Self-insured employers can enter into written agreements with their TPAs to provide the attestation, but the legal responsibility remains with the health plan. Self-insured employers may need to submit their own attestations if their TPA is unwilling to submit the attestation on their behalf.

According to the Departments' [FAQs](#), health plans and issuers that do not submit their attestations by the deadline may be subject to enforcement action. Employers are encouraged to seek guidance from their Benefit Broker.

EEOC Increases Penalty for Violations of Notice-posting Requirements

On Sept. 30, 2025, the U.S. Equal Employment Opportunity Commission (EEOC) published a [final rule](#) increasing the maximum civil monetary penalty for violations of federal requirements for employers to post notices about fair employment laws in their employees' workplaces. The new maximum penalty amount is **\$698**, which is an increase from \$680.

This penalty may be assessed against any entity that is required but fails to display notices mandated under Title VII of the Civil Rights Act (Title VII), the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination



Act (GINA) and the Pregnant Workers Fairness Act (PWFA). Generally, the laws that require the “Know Your Rights” poster apply to all private employers with 15 or more employees, state and local governmental employers, labor organizations and joint labor management committees.

- The EEOC last issued an updated poster on June 27, 2023, titled “[Know Your Rights: Workplace Discrimination is Illegal](#)” for covered entities to use to comply with these mandates.
- Covered entities must place the posters in conspicuous locations in the workplace where notices to applicants and employees are customarily posted.
- The EEOC also encourages covered entities to display the notices digitally on their websites. In most cases, electronic posting should be in addition to a physical posting. However, an electronic poster may be the only one if there is no physical workplace. For example, this may be the case for employees who telework or work remotely and do not visit the employer’s workplace on a regular basis.

Employees’ Right to Talk Pay & the NLRA

The Ninth Circuit issued a reminder to all employers that employees discussing wages generally qualifies as protected activity under Section 7 of the National Labor Relations Act (NLRA). Accordingly, all employers need to be aware that employees have a right to discuss pay.

It is important to remember that the NLRA covers nearly all private sector employers – not just those with unions. Non-union private sector employers must fully comply with labor law developments because all of their employees are protected by the NLRA, even in the absence of union representation.

Section 7 of the NLRA guarantees employees numerous rights, including the right to engage in protected concerted activities for the purpose of collective bargaining or other mutual aid or protection. Common examples of protected concerted activity include discussing terms and conditions of employment (including on social media), distributing materials, participating in a concerted refusal to work in unsafe conditions, talking to a government agency about problems in the workplace, speaking to media about workplace labor concerns, and employees joining together to talk directly to the employer about issues in the workplace. Employers may not understand that the protections afforded by Section 7 also apply to issues beyond union activity, and to non-unionized workplaces. Therefore, an employee does not have to be conversing about a topic that relates directly to working conditions in the traditional sense or to unions for the discussions or actions to be protected concerted activity.

The bottom line is that employees have a right to discuss wages and other terms and conditions of employment. Restricting those discussions could lead to unfair labor practice charges, so it is important that employers respect employees’ Section 7 rights.

Aug/September Articles/Reminders:

Annual Medicare Part D Notice – Due before **Oct 14, 2025**

The Annual Creditable Coverage Notice Deadline is just around the corner - October 14. Employers must disclose to Medicare-eligible plan participants whether offered prescription drug coverage is creditable (at least as good as Medicare Part D benefits) or non-creditable.

Employers are to provide notice to all Part D eligible individuals, or those about to become eligible, prior to October 15 of each year who is covered by an employer health plan with outpatient prescription drug coverage, regardless of whether the employer coverage is primary or secondary to Medicare. The notice must be provided to all Part D eligible individuals, whether covered as active employees, retirees, COBRA recipients, disabled individuals, or as dependents. Plan participants are Part D eligible if they are 65 or more years old, three months before turning age 65, and/or if they are disabled.

Providing this notice within your enrollment materials throughout the year will meet the distribution requirements as long as it is provided prior to Oct 15th. A separate reminder in the beginning of Oct each year reminding employees of where to find the information is recommended.



Additional, Employers offering multiple prescription plans (typically as part of their medical benefits) could have both Creditable and Non-creditable offerings. If so, BOTH notices must be prepared & distributed citing which plans are and are not Creditable

Although there are no penalties for employers associated with either the Annual Creditable Coverage Notice and/or the Employer's Online Disclosure to CMS as to a group's plan(s) Creditability, employees deferring Medicare Part D enrollment will be assessed penalties should the group plans they are enrolled in were deemed Non-Creditable.

Employers can engage their benefits broker with regard to this compliance obligation, their carrier and/CMS for additional guidance and sample Notices.

CMS provides [model notices](#) in both English and Spanish as well as [electronic disclosure rules](#). Additionally, CMS has provided a [Simplified Determination document](#) to help employers figure out the creditable coverage status in the event that's unknown. More Creditable Coverage information can be accessed [HERE](#) and the 2026 Part D Redesign Program instructions [HERE](#)

Federal Contractor VETS 4212 Filing – Due Sept 30, 2025

Federal contractors with a contract worth \$150,000 or more are required to file a VETS-4212 Report, which is due on September 30 of each year.

The VETS-4212 Report generally requires information about a contractor's workforce at each hiring location, including the following:

- Number of employees
- Number of protected veterans
- Number of new hires during the year
- Number of protected veteran hires during the year

The same data and snapshot period can be used for both the 2024 EEO-1 and 2024 VETS-4212 reports provided conditions are met and the additional Protected Veteran Count provided along with Total Employees. A sample VETS 4212 report is provided as an example.

Filing Period

The official filing cycle is yearly, **August 1 to September 30**. Reports filed outside the official filing cycle will be treated as part of the currently active filing cycle.

Submitting Form VETS-4212

Federal contractors and subcontractors who are required to file form VETS-4212 can submit their forms electronically by using either the VETS-4212 Reporting Application or batch filing process, or by using the paper form by email or U.S. mail. We recommend that you file your form electronically.

Filing Electronically

[VETS-4212 Reporting Application](#) – File your VETS-4212 report online.

New! Benefit Plans Starting August 1 - Employer's CMS Part D Creditable Coverage [Online Disclosure](#) – September 30, 2025

New! Benefit Plans Starting September 1 - Employer's CMS Part D Creditable Coverage [Online Disclosure](#) – October 31, 2025

New! Treasury Dept Issues List of Jobs Qualifying for new Tip Income Deduction under "One Big Beautiful" Act



This summer the President signed the “One Big Beautiful Bill” Act (OBBBA) into law, which included a provision establishing a new temporary above-the-line tax deduction for “qualified tip income” through at least the 2028 tax year.

On September 2, 2025, the Treasury Department released a “[preliminary list](#)” of jobs eligible for the tax deduction on “qualified tip income” under the OBBBA. While the list is not yet final, as it must still be published in the Federal Register, the Treasury Department notes that the IRS expects the final list to “be substantially the same as this preliminary list” as the OBBBA requires the Treasury secretary to publish an official list of qualifying occupations by October 2, 2025.

Notably, the Treasury Department’s preliminary list of occupations that “customarily and regularly received tips” includes many occupations that the U.S. Department of Labor (DOL) has long [interpreted](#) as *not* customarily and regularly receiving tips, such as dishwashers and cooks. This is an important difference. The DOL has construed the Fair Labor Standards Act (FLSA) to prohibit employers from applying a “tip credit” to satisfy the minimum wage obligation for employees who are not engaged in an occupation that customarily and regularly receives tips. Further, when an employer does take a tip credit, only employees who also “customarily and regularly receive tips” can participate in a mandatory tip pool. It had been assumed that the Treasury secretary would align its list with the DOL’s approach due to the use of the parallel “customarily and regularly” language in both the FLSA and the OBBBA. It remains to be seen whether the Treasury secretary will attempt to reconcile its final list with the DOL’s approach (or whether the broader interpretation suggested by the Treasury Department’s preliminary list may one day influence the DOL’s narrower interpretation).

Another potential consequence of the Treasury Department’s broad preliminary list is that it may ease the reporting burden of employers that were concerned that the OBBBA might require them to separately track tips received by dual job employees while working in traditional tipped occupations (like wait staff and bartender) from tips received from a tip pool by that same employee while working in another position (like dishwasher or cook), assuming that only the former category of tips would qualify for the deduction.

-Extracted from Littler Mendelson article released Sept 3 and can be accessed [HERE](#)

IRS Raises ACA Affordability Threshold for 2026 Plan Year

The IRS released [Revenue Procedure 2025-25](#) on July 18, 2025. In this release, the Affordable Care Act (ACA) affordability threshold will **increase to 9.96%** for plan years beginning in **2026**.

This threshold, applicable to large employers subject to the ACA’s “play or pay” provision, is the maximum percentage of an employee’s W-2 wages or rate of pay, or the federal poverty line, that they can be asked to contribute toward their employee-only health insurance coverage.

DOJ Defines “Illegal DEI,” Warns Recipients of Federal Funds to Take Notice

On July 29, 2025, U.S. Attorney General Pam Bondi issued [Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination](#) (the “Guidance”). Following the creation of the [Civil Rights Fraud Initiative](#) by the Department of Justice (“DOJ”), and joint guidance issued by DOJ and the U.S. Equal Employment Opportunity Commission (“EEOC”) on “[unlawful DEI-related discrimination](#)”, the Guidance is the most tangible guidance released to date on what the administration views as “illegal DEI” and a likely roadmap for DOJ’s False Claims Act (“FCA”) investigations under the Civil Rights Fraud Initiative. Read more in the August 6th online article released by Mayer Brown [HERE](#)

DOL Ceases Enforcement of Liquidated Damages in FLSA Investigations

The [Federal Fair Labor Standards Act](#) (“FLSA”) is a federal law that establishes a standard minimum wage and overtime pay for eligible employees. The FLSA also provides that employers who violate its



requirements can be held liable for liquidated (double) damages. In other words, if an employer shorts an employee \$100 in overtime pay, it faces a potential \$200 liability.

In years past, if the DOL determined the business owed workers unpaid wages, the DOL sought to have the offending business pay out those wages, plus an equal amount as liquidated damages. As of June 27, 2025, that practice has come to an end with the DOL issuing a [Field Assistance Bulletin](#) advising that the agency would no longer seek liquidated damages at the investigation stage.

Note that the prohibition on seeking liquidated damages exists only at the administrative/investigative stage. Businesses that litigate FLSA cases in court still face the threat of liquidated damages in the event of an adverse verdict.

FTC Ends Pursuit of Non-Compete Prohibition

The Federal Trade Commission (FTC) decided in early September to cease its efforts to implement a nationwide prohibition on employer non-compete agreements. This decision followed the agency's decision not to appeal against a nationwide injunction that had stalled the Rule's implementation. Initially proposed in January 2023, the Rule was anticipated to significantly impact non-compete agreements across the country.

After facing several court challenges, the FTC has quietly abandoned the initiative.

Despite the end of this *federal effort*, the FTC has indicated it will prioritize the scrutiny of restrictive covenant practices, including non-competes, particularly in the healthcare sector, where worker mobility is often restricted. This shift in focus underscores the importance for employers to remain vigilant about state laws governing non-compete agreements.

Navigating Employee Political Speech: Key Considerations for Employers

The line that stands between one's personal politics and professional responsibilities has never been thinner. Employers may wish to remind their employees about the potential repercussions of making public political statements or sharing strong opinions online or in the workplace, particularly on social media. They should do so cautiously and carefully weigh workplace policies as well as organizational reputation against evolving legal protections.

Protected Concerted Activity

While maintaining a respectful workplace is a legitimate goal, employers must balance that interest against employees' rights.

For **private-sector employers**, [Section 7 of the National Labor Relations Act](#) (NLRA) protects employees' right to engage in "**protected concerted activity**," meaning actions employees take together—or on behalf of their coworkers—to **improve wages, hours, or other terms and conditions of employment**. This protection covers employees' discussions about these topics, whether they occur in person or online. Tweets, posts, and workplace conversations tied to these topics often qualify for protection, even if they are critical of management or politically charged. Overreaching employer policies that chill such activity can lead to unfair labor practice charges. The NLRA does **not** protect federal, state, and local government workers.

First Amendment Protections

Public-sector employers, however, must navigate the First Amendment before taking action based on their employees' controversial political opinions. Employee speech may be protected by the First Amendment when the employee's statement involves a matter of public concern and is made as a private citizen, provided the employee's speech does not unduly disrupt the employer's operations.

Private employers, by contrast, generally have more leeway to regulate political expression that is unrelated to workplace conditions, subject to state or local laws that prohibit discrimination based on political affiliation or lawful off-duty conduct.



Employee Takeaway: Before taking action, employers should carefully assess whether their employees' statements relate to any terms and conditions of employment, whether the speech occurred during working time or used company resources, and whether applicable state or local protections apply. A measured approach—paired with clear, narrowly tailored social media and conduct policies—can help reduce legal risk while maintaining a professional and respectful workplace.

—Article published Sept 16, 2025 by Ward & Smith, PA can be accessed [HERE](#)

July Articles/Reminders

One Big Beautiful Bill Act: Overtime and Tips Taxes

Key Provisions:

- Law allows workers (employees and independent contractors) to deduct up to \$25,000 in tips (for those who regularly receive tips) & \$12,500 (\$25,000 if filing a joint return) in overtime pay from their federal adjusted gross income.
- Income tax withholding requirements are **not** immediately affected by the legislation and employers must continue withholding at the current rates during 2025 on all tips and overtime as they were before the legislation took effect.

The recently enacted One Big Beautiful Bill Act (Act), signed into law on July 4, contains incentives to alleviate the federal income tax burden on overtime earnings and tips for qualifying workers. Although the legislation more directly affects workers, employers with highly compensated, nonexempt workers should be aware of the potential implications for both compliance and staffing practices.

Impact on Employees:

The Act does not immediately modify the requirement for employers to withhold federal income taxes from employee paychecks. Because the Act provides an income tax deduction, workers will see the benefit, if any, for 2025 when they file their income tax returns. Beginning in 2026, the IRS will modify the income tax withholding rules to take into account both the qualified tip deduction and the qualified overtime deduction. Under the Act workers who receive qualified tips may deduct up to \$25,000 of their tip income when they file their federal income tax return. The IRS is required to publish a list of occupations that qualify by October 2, 2025. Workers earning qualified overtime may also deduct as much as \$12,500 (or \$25,000 for joint filers) of such qualified overtime from their adjusted gross income. Lower-wage earners will likely benefit from the new measures, if at all, to a modest degree (they must have a federal tax liability to begin with); higher earners who already face larger federal income tax bills stand to realize the greatest savings, although the deductions start to phase out for individuals with a modified adjusted gross income of more than \$150,000 per year (\$300,000 for joint filers).

Impact on Employers:

Employers should continue to withhold federal income taxes on both tips and overtime pay in accordance with existing law through the end of 2025, as workers will reconcile any deductions when they file their annual income tax returns. Importantly, employers and those who use 1099 contractors should also be prepared to report the amount of qualified tips and/or qualified overtime paid to each worker and the worker's occupation (for tips only) as required on Form W-2 and Form 1099, beginning with tax year 2025, which will be due in January 2026. A transition rule allows employers to use a reasonable method specified by the IRS to approximate qualified tips and overtime paid during 2025. Beginning in 2026, employers will have to adjust their income tax withholding practices for qualified tips and qualified overtime based on future procedures to be issued by the IRS.

NOTE: While the qualified overtime and qualified tips deductions bring opportunities for workers across multiple industries, these provisions are temporary and will sunset on **December 31, 2028.**

To learn more access a recent article by VedderPrice law firm [HERE](#); HucschBlackwell law firm [HERE](#)



One Big Beautiful Bill Act: Expanded Telehealth Relief and Student Loan Repayment Benefits

On July 4, the budget reconciliation bill (aka One Big Beautiful Bill Act) was signed into law, indefinitely extending two key pre-pandemic benefits, described below.

High Deductible Health Plans and Telehealth

For high deductible health plans (HDHPs) that began after December 31, 2024, telehealth (virtual) or remote care can be covered *before* your employees meet their deductible without impacting their eligibility to contribute to a health savings account (HSA).

NOTE: There are additional implications impacting Employee Benefits. Be on the lookout for information from your Benefits Advisors & Brokers as to how this legislation impacts your benefit offerings specifically.

Student Loan Reimbursement

Employers can pay or reimburse up to \$5,250 of an employee's student loans tax-free through a written educational assistance program. Employers must provide reasonable notice of the benefits and terms to all eligible employees. The annual limit will increase incrementally beginning in 2027.

If you offer an educational assistance program and intend to continue doing so, you should remove any expiration dates from your current documents and notify employees of the change. You could also update them to say that the limit is the same as the limit allowed by law, so the document won't need to be amended as the annual limit increases over time.

To read more, access a recent article from the Bradley law firm [HERE](#)

One Big Beautiful Bill Act: Workplace Immigration Enforcement

A July 23, 2025, Foley & Lardner, LLP article below and accessible [HERE](#)

The "[One Big Beautiful Bill Act](#)," signed into law by President Trump on July 4, 2025, will fund government efforts to continue to vigorously enforce the immigration laws. Companies in the manufacturing, health care, hospitality, construction, and agriculture sectors should take notice of the significant new spending allocated to immigration enforcement and should take specific steps now to evaluate and address their increased legal exposure.

Immigration-Related Spending Allocations

The legislation's spending allocations are directly in line with the Trump Administration's priority on immigration enforcement. In a May 19, 2025 [press release](#), the House Judiciary Committee estimated that the bill would fund "at least 1 million annual removals, 10,000 new Immigration and Customs Enforcement (ICE) personnel, and detention capacity sufficient to maintain an average daily population of 100,000 aliens." Specifically, the bill allocates \$170 billion to immigration enforcement, which includes over \$75 billion allocated for Immigration and Customs Enforcement (ICE) and more than \$46 billion to Customs and Border Protection (CPB), which has [assisted with arrests](#) of unauthorized workers.

Impact on Large Companies

These increased immigration-related spending allocations will likely have a direct impact on certain companies and their legal liability. Just last month, Border Czar Tom Homan [stated](#) that "[w]orksite enforcement operations are going to massively expand." The bill's spending allocations put real money behind his promise. In a CBS interview following the bill's signing into law, Homan said he was "happy with the numbers," and described the bill as a "game changer" given funding that facilitates ICE's ability to increase enforcement.



Companies should expect more frequent and aggressive notice of inspections and audits of Form I-9s due to increased staffing and audit infrastructure. As a result of these audits, companies can be investigated and criminally prosecuted for use of fraudulent paperwork, knowingly employing unauthorized employees and other federal crimes, in addition to the imposition of potential civil penalties. Additionally, a company can be barred from federal contracts if they are found to have knowingly employed unauthorized workers. Employers also cannot shield themselves from liability by working through third-party or temp agencies.

While E-Verify is required for certain companies, including all federal contractors, some lawmakers have pressed for expanded use requirements of the electronic employment eligibility verification system. The [E-Verify system has certain vulnerabilities](#), so employers who use E-Verify could see increased delays in hiring, false positives, or wrongful terminations based on errors or system mismatches. It is not a guarantee of “no prosecution” even though the E-Verify system is a government-hosted system.

Finally, if the Department of Justice executes a criminal search warrant at a company’s location, it can then become very difficult to find qualified, authorized replacement employees to operate the business. Aside from direct enforcement, employers who (whether knowingly or not) hired many unauthorized workers may be forced to enact mass layoffs, resulting in major slowdowns in production. Employers may also expect a reduction in the supply of workers, particularly in key industries such as agriculture and construction, which may require employers to develop additional hiring incentives and pay higher wages.

Addressing the Risks

To address these risks, companies should consider hiring more specialized HR and legal teams to address notoriously complicated immigration and work authorization issues. Policies and procedures regarding a company’s Form I-9 processes should be written, and employees involved in the hiring process should be well-trained on such policies and procedures.

Additionally, given the heightened risk of a Notice of Inspection and site visits, employers would be prudent to conduct more frequent internal audits of Form I-9 documentation. Employers should consider adopting or upgrading their electronic Form I-9 system to both be able to better track documentation and timely produce documents in response to a subpoena or Notice of Inspection. Companies should also implement electronic tracking systems to keep track of expiring work authorizations.

Most importantly, companies should implement a clear policy and procedure to respond to immigration enforcement raids similar to the recent raids [in Tallahassee, Florida](#) and [near Camarillo, California](#) in order to limit the impact of such raids on their workforce and production. Vulnerable companies in the manufacturing, health care, hospitality, construction, and agriculture sectors and located in perceived “sanctuary city” jurisdictions like Los Angeles, San Francisco, New York and Miami should take immediate action.

OSHA Issues Updated Penalty & Debt Collection Guidelines to Support Small Businesses – Eff July 14, 2025

On July 14, 2025, the U.S. Occupational Safety and Health Administration (OSHA) issued significant updates to its penalty and debt collection guidelines, aimed at reducing burdens on small businesses and incentivizing swift correction of workplace hazards. These updates, reflected in Chapter 6 of OSHA’s Field Operations Manual, expand eligibility for penalty reductions and streamline debt collection procedures.

Notably, under the new guidelines, the threshold for small employer penalty reductions has been raised—businesses with up to 25 employees (previously 10) can now qualify for a 70% penalty reduction.



Additionally, employers that promptly correct hazards may receive a new 15% reduction under OSHA's "Quick-Fix" credit. To qualify, the hazard must be corrected within five days of discovery and employee exposure to the hazard must be prevented during that time. If more than five days is needed to abate the hazard, the employer must notify the OSHA Compliance Safety and Health Officer (CSHO) within the five-day window to explain the corrective actions taken and why up to an additional 10 days is necessary. However, no Quick-Fix credit will be granted if abatement takes more than 15 days.

The updated policy also expands the penalty reduction for employers without a history of serious, willful, repeat, or failure-to-abate OSHA violations. Employers may be eligible for a 20% history-based penalty reduction if they have either:

- Been inspected by federal OSHA or a State Plan within the past five years and were found in compliance or cited only for other-than-serious violations; or
- Never been inspected by OSHA or a State Plan.

These changes aim to reward good-faith compliance efforts while maintaining accountability for workplace safety. The new policies are effective immediately. Penalties issued before July 14, 2025, will remain under the previous penalty structure. Open investigations in which penalties have not yet been issued are covered by the new guidance.

Employers with open OSHA investigations should consult experienced workplace safety counsel to determine how these changes **may impact their case and to ensure they are taking full advantage of the updated policies.**

Reminder: E-Verify Users Must Now Generate Status Change Reports to Identify Terminated Work Authorizations- Eff June 23, 2025

Reminder: Compliance Reminder: PCORI – Fees Due by July 31, 2025

June Articles

E-Verify Users Must Now Generate Status Change Reports to Identify Terminated Work Authorizations- Eff June 23, 2025

Employers which are enrolled in E-Verify must now generate **Status Change Reports** to identify employees whose work permits have been terminated due to changes in temporary status protections or similar programs.

The recent termination by the Department of Homeland Security ("DHS") of removal protections and employment authorization for several hundred thousand individuals covered by Temporary Protected Status and parole programs has resulted in situations where a worker's employment authorization document ("EAD") may appear valid despite having been revoked. **Previously, E-Verify would issue Case Alerts to employers where an EAD had been revoked by DHS.**

As per [June 23, 2025 guidance issued on the E-Verify website](#), Case Alerts will no longer be used for EAD revocations related to the termination of parole or other humanitarian protected status programs. Employers now "should regularly generate the Status Change Report to identify E-Verify cases created with an EAD that is now revoked" on these bases. As per the guidance, employees whose EADs were revoked between April 9-June 13, 2025 would be reflected in Status Change Reports available as of June 20, 2025.

The guidance further states that employers should not create a new E-Verify case in the event an employee appears on a Status Change Report. Rather, "E-Verify employers must use Form I-9, Supplement B, to immediately begin reverifying each current employee whose EAD the Status Change Report indicated was revoked, or after your employee voluntarily discloses to you that their EAD has been revoked and complete all reverifications within a reasonable amount of time." In such situations, employees may still be authorized to work in the United States based



on another status or provision of law and may provide other acceptable Form I-9 documentation to the employer to demonstrate employment authorization.

Reminder: Compliance Reminder: PCORI – Fees Due by July 31, 2025

The Affordable Care Act imposed the PCORI fee on specified health insurance policies and plan sponsors of self-insured health. The fee is required to be reported once a year on the Form 720, Quarterly Federal Excise Tax Return and paid by its due date, July 31. The amount of the PCORI fee is based on the average number of lives covered under the policy or plan.

The PCORI fee for plan years ending on or after October 1, 2024, and before October 1, 2025, will be \$3.47 per covered life. If you have a non-calendar year plan that does not fall in the above window, you may find the amount you owe [here](#).

**Payment is due by July 31 of the year following the last day of the plan year.
For plan years ending in 2024, the PCORI fees are due by July 31, 2025.**

Employers who sponsor self-insured plans subject to the PCORI fee are responsible for filing Form 720 and paying the fee. Self-insured health plans should speak with their TPA to determine the number of lives for payment. Sponsors of fully insured health plans do not have to worry about the fee but if you also sponsor a health reimbursement arrangement (HRA), it is considered self-funded and the PCORI fee is due on the HRA lives.

If you find you need assistance, please reach out to your benefits broker or = HR_Help@etctracking.com

Benefit Plans Starting June 1 - Employer's CMS Part D Creditable Coverage Online Disclosure – July 31, 2025

Reminder: RxDC Reporting Carrier Deadlines - June 1, 2025 Filing Deadline

Group health plans and health insurance issuers must annually submit detailed information on prescription drug and health care spending to the Centers for Medicare & Medicaid Services (CMS). This reporting is referred to as the "prescription drug data collection" (or "RxDC report"). The next RxDC report is due by **Sunday, June 1, 2025**, covering **data for 2024**.

Employer Takeaway: Employers should start reaching out to their issuers, TPAs or PBMs, as applicable, to confirm that they will submit the RxDC files for their health plans by June 1, 2025. Employers should also confirm that their written agreements with any third party support services addresses this reporting responsibility. If you find that you need assistance, ETC may be able to provide you with guidance, tools and even execute the filing of the P2 & D1 Rx DC related reporting. Reach out to us at HR_Help@etctracking.com should you wish to explore how ETC may be able to assist you.

DOL Relaunches Opinion Letter Program

On June 2, 2025, the Department of Labor (DOL) launched its Opinion Letter program. Opinion Letters are official written responses from the DOL that explain how it would apply statutes and regulations under particular facts presented by a requesting party. According to Deputy Secretary of Labor Keith Sonderling, the program is designed to "promote clarity, consistency, and transparency in the application of federal labor standards." Although not legally binding and unable to override existing statutes and regulations, these letters offer authoritative insight into the Department's enforcement approach and are often relied upon by employers to navigate complex compliance obligations. In certain cases, such as under the Fair Labor Standards Act, reliance on an opinion letter can support a good faith defense and limit liability.



The program includes participation from five DOL enforcement agencies within the Department:

- The Wage and Hour Division will issue opinion letters.
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- The Mine Safety and Health Administration will provide compliance assistance resources through its new MSHA Information Hub.

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Benefit Plans Starting **June 1 - Employer's CMS Part D Creditable Coverage Online Disclosure – **July 31, 2025****

2024 EEO-1 Reporting - Expected May 20-June 24

According to recent administrative documents filed by the Equal Employment Opportunity Commission (EEOC), this year's collection of EEO-1 reports will begin in less than a month – and will not allow employers to categorize workers as “non-binary.”

Private employers

- With at least 100 employees and federal contractors with at least 50 employees should prepare to sort company data by employee **job category, as well as by sex and race/ethnicity**, to turn over to the EEOC between **May 20 and June 24**.
- While these dates may change, the final opening and deadline dates will be posted on the [EEOC's dedicated website for its EEO-1 Component 1 data collection](#).

Federal contractors

- With 50-100 employees are still uncertain whether they will be required to file an EEO-1 this year. Until we have further guidance from the EEOC or OFCCP, we cannot be sure whether federal contractors falling in this window will have an EEO-1 filing obligation this year.

No Pay Data Collection & Reporting Obligations

- As predicted, the new Trump EEOC has shelved any plans to collect employee pay data with 2024 EEO reporting obligations.

EEO-1 Next Steps

- Traditionally, EEO-1 reports require employers to pick a payroll end date between October 1 and December 31 as your “workforce snapshot period.” This snapshot period will become the basis of reporting all employees as of that date. The instruction booklet indicates that the EEOC will once again prevent employers from manipulating this date in order to avoid EEO-1 reporting. If you reached 100 or more employees during any point of the fourth quarter of 2024, EEO-1 reporting is required.
- Ensure that your job titles are categorized correctly and consistently.

The EEO job categories are:

- (1.1) Executive/Senior-level officials and managers
- (1.2) First/Mid-level officials and managers
- (2) Professionals
- (3) Technicians
- (4) Sales workers
- (5) Administrative support workers
- (6) Craft workers
- (7) Operatives
- (8) Laborers and helpers
- (9) Service workers
- Ensure data reflects race/ethnicity categories
 - **Hispanic or Latino:** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
 - **White (Not Hispanic or Latino):** A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.



- **Black or African American (Not Hispanic or Latino):** A person having origins in any of the black racial groups of Africa.
- **Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino):** A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **Asian (Not Hispanic or Latino):** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- **American Indian or Alaska Native (Not Hispanic or Latino):** A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.
- **Two or More Races (Not Hispanic or Latino):** All persons who identify with more than one of the above five races.

Employer Takeaway: Employers subject to EEO-1 requirements should begin preparing now to ensure compliance by the anticipated June deadline as it appears employers will have until June 24 to file. In the past, the EEO-1 reporting system has slowed down significantly as the deadline approached, which makes filing more challenging. Allow sufficient time before the deadline to avoid last minute scrambling should there be technical challenges.

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The RxDC report is comprised of several files, including those that require specific plan-level information, such as plan year beginning and end dates and enrollment and premium data. It also includes files that require detailed information about medical and pharmacy benefits.

Most employers contract with third parties, such as issuers, third-party administrators (TPAs) and pharmacy benefit managers (PBMs), to submit RxDC reports on behalf of their health plans. Employers may work with multiple third parties to complete the RxDC report for their health plans. For example, a self-insured employer may use both its TPA and PBM to submit different portions of the RxDC report. A health plan's submission is considered complete if CMS receives all required files, regardless of who submits them.

Resources:

- RxDC reporting [webpage](#) (with links to reporting resources)
- [Frequently Asked Questions](#)
- [Reporting instructions](#) (updated January 2025, no changes from last year)
- [User Manual](#) for submitting RxDC reports

Employer Takeaway: Employers should start reaching out to their issuers, TPAs or PBMs, as applicable, to confirm that they will submit the RxDC files for their health plans by June 1, 2025. Employers should also confirm that their written agreements with any third party support services addresses this reporting responsibility. If you find that you need assistance, ETC may be able to provide you with guidance, tools and even execute the filing of the P2 & D1 Rx DC related reporting. Reach out to us at HR_Help@etctracking.com should you wish to explore how ETC may be able to assist you.

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- The Employee Benefits Security Administration will release advisory opinions and information letters.
- The Veterans’ Employment and Training Service (VETS) will issue opinion letters.
- The Mine Safety and Health Administration will provide compliance assistance resources through its new MSHA Information Hub.

Executive Order: Aim to Reduce Drug Costs

On May 12, 2025, President Donald Trump issued an [executive order](#) (EO) that aims to bring the prices Americans pay for prescription drugs in line with those paid by similar nations. According to a White House [fact sheet](#), the prices Americans pay for brand-name drugs are more than three times the price other nations pay.

- The EO directs HHS to communicate most-favored-nation price targets to pharmaceutical manufacturers within 30 days.
- The EO is expected to face legal challenges, so the immediate impact on drug costs remains to be seen.

Potential Legal Hurdles

While the EO directs the Secretary of HHS to communicate most-favored-nation price targets to pharmaceutical manufacturers within 30 days, it is expected to face legal challenges. Industry professionals reference a similar proposal from Trump’s first term, which aimed to link Medicare payments for certain medications to the lowest prices paid by other countries. This proposal was blocked by federal courts for not adhering to the notice and comment process required by the Administrative Procedure Act. Thus, the immediate impact on drug costs remains to be seen.

Trump Administration Will Not Enforce Final Rule on Mental Health Parity

On May 15, 2025, the U.S. Departments of Labor, Health and Human Services, and the Treasury (Departments) released a [statement](#) regarding nonenforcement of the [2024 final rule](#) under the Mental Health Parity and Addiction Equity Act (MHPAEA).

- Federal agencies are reconsidering a final rule on mental health parity that was issued in 2024.
- Critics of the final rule have argued its requirements are “unworkable” and could cause employers to drop MH/SUD coverage entirely.
- The federal government has adopted a temporary nonenforcement policy for the 2024 final rule.
- Health plans should continue to comply with MHPAEA’s statutory requirements and refer to the prior final rule from 2013.
- **Employer Takeaway:** Employer-sponsored health plans should continue to comply with MHPAEA’s statutory requirements and refer to the [2013 final rule](#) for guidance. Employers should also monitor updates regarding any modifications to the 2024 final rule

DOL Retracts Biden-Era Independent Contractor Classification Rule

On May 1, 2025, the United States Department of Labor’s (“DOL”) [Wage and Hour Division announced](#) it would not enforce or apply the Biden-era 2024 Final Rule regarding independent contractor classification (“2024 Rule”). Specifically, the DOL directed its investigators “not to apply the 2024 Rule’s analysis” in enforcement matters.

Employer takeaways:

- The DOL's announcement will y make it easier for employers to classify workers as independent contractors at the federal level.
- While the 2024 Rule does remain in effect for private litigation and certain state-specific tests still impose higher worker classification standards than the current federal guidelines. For example, certain states' classification standards far outpace federal guidelines and are more employee friendly. California, New Jersey, and Massachusetts use the much stricter "ABC test" to determine whether a worker is an independent contractor.
- Regardless of the DOL's announcement, employers should remain vigilant and ensure they are compliant with applicable classification rules; which greatly vary by jurisdiction.

Court Scraps EEOC Guidance on Pronouns, Restrooms & Dress

In April 2024, the U.S. Equal Employment Opportunity Commission [issued *Enforcement Guidance on Harassment in the Workplace*](#). The Enforcement Guidance addressed, among other things, harassment and discrimination based on gender identity. It is believed there is no likelihood of the EEOC appealing the recent ruling.

You may be wondering what you, as an employer, should be doing now. The answer, in all likelihood, is "stay the course but relax a bit":

- **If your harassment policy prohibits discrimination or harassment based on sexual orientation or gender identity, keep it in place.** It's still fine (and recommended) to prohibit bias or harassment based on these characteristics. And, depending on your location, you may still be required to do it under state or local law.
- Despite the fact that the EEOC's guidance on pronouns has been vacated, **continue being considerate and respectful of the pronoun preferences of transgender and nonbinary employees**, and their preferred names. But if you (or your employees) slip up, or if the transgender or nonbinary person has not legally changed their name and you need to use the "dead name"* on tax forms, I-9s, and other legal documents, you won't need to be overly concerned – at least, not from a federal law violation standpoint. *"Dead-naming" is using a transgender person's birth name rather than the current, preferred name.
- **If you have, say, a transgender female employee who dresses like a woman, you can continue to allow that. But if you *don't* want to allow it, confer with your employment counsel first.** The companion case to *Bostock* involved a transgender woman who was hired before her transition to female. In other words, she was a biological male, and at the time of hire and for some time afterward was presenting as a male. During her transition, she began presenting at work as female, and she was fired. If I understand Judge Kacsmaryk correctly, he believes that this plaintiff was fired because she was a biological man dressing (and styling her hair and wearing makeup, etc.) like a woman. If the plaintiff had been a biological woman dressing the same way, then there would have been no problem. Therefore, when the plaintiff was fired, she was discriminated against because of her biological maleness, not because she was transgender. With all due respect to the judge, there seems to be a very, very, very fine line (if any) between discriminating against the plaintiff because she was a biological man dressing like a woman, versus discriminating against the plaintiff for being transgender. So do be careful and check with your employment law counsel before you prohibit a transgender employee from "presenting" based on his or her gender identity, and definitely before you discipline or discharge a transgender employee for this reason.
- As I've been recommending for some time now, **be sure to consider making accommodations for employees** who say that it violates their religious beliefs to address an XY person as a "she" or an XX person as a "he." And, if you get such a request for accommodation, consult with your attorney before making any decisions that may come back to bite you.



State Court Ruling with Multistate Employer Considerations –

Remote Employee Sues Massachusetts Employer for Violating MA Employment Laws

In today's workplace, it is not uncommon for employees to partially or fully work remotely from a different state. For example, employees working for a business located in the Commonwealth might live and work-from-home in a neighboring state. This begs the question – can employees working from home in Connecticut, Rhode Island, or some other state take advantage of employee-friendly laws in Massachusetts, such as the Massachusetts Wage Act, which awards successful plaintiffs with mandatory triple damages. This issue was recently examined by a Massachusetts Superior Court in a case involving an employee living outside Massachusetts who was working remotely for a Massachusetts-based employer.

The Background

The plaintiff in this case lived and worked for the defendant/employer from her home in Rhode Island. Toward the end of her employment, there was a dispute over unpaid commissions allegedly due to the plaintiff. When her employment ended, the plaintiff sued her former employer alleging that she was not paid commissions that were due to her under the Massachusetts Wage Act. The plaintiff also claimed she was retaliated against in violation of the Wage Act for complaining about not receiving those commissions.

The Decision

The defendant/employer sought to dismiss the Wage Act claims arguing that the Massachusetts Wage Act did not apply to this dispute, and instead Rhode Island law should control. In support of this argument, the defendant/employer pointed to the fact that the plaintiff worked in Rhode Island, used a Rhode Island phone number for work, received her wages via direct deposit to her bank account in Rhode Island, received her final pay stub at her Rhode Island address, paid Rhode Island taxes, and even claimed Rhode Island unemployment benefits after termination.

Despite this, the court ruled that Massachusetts law should apply. The court pointed out that the plaintiff's sales territory – at least at the end of her employment – covered solely Massachusetts. As a result, she was traveling to her employer's office in Massachusetts weekly or bi-weekly. In addition, and what may have been one of the more important facts in the eyes of the court, the plaintiff signed an employment agreement with the defendant/employer at the beginning of her employment that contained a provision stating Massachusetts law applied to the agreement. Although that employment agreement did not cover the payment of commissions (instead, it addressed non-competition and confidentiality obligations), by including a Massachusetts choice-of-law provision in the non-compete/confidentiality agreement, the defendant/employer apparently contemplated that Massachusetts law would apply to other aspects of the employment relationship.

Employer Takeaways

As readers are aware, the Massachusetts Wage Act and the Massachusetts Paid Family and Medical Leave ("PFML") law are two of the most employee-friendly laws in the entire country. Because of this, to the extent possible, employers should steer clear of litigation related to these laws. Obviously, this is hard to do when employees with purported Wage Act or PFML claims are working in the state of Massachusetts. However, this becomes easier with employees working remotely outside the Commonwealth. To help ensure that the employee-friendly laws of Massachusetts do not extend to employment relationships outside the Commonwealth, **employers should make it clear in offer letters and other employment-related documents and agreements that the law of the employee's home state applies to the employment relationship**. The employer should also provide remote employees living in another state with handbook supplements that explain the employment laws of their home state. Finally, employers should have all employment-related agreements reviewed by employment counsel to ensure the most appropriate choice-of-law provisions are in place.

-May 20, 2025, blog article by John S. Gannon - Skoler Abbott P.C. can be access [HERE](#)



ADA Accommodations, Even If Employees Can Perform Essential Functions

On March 25, 2025, the Second Circuit Court of Appeals ruled in [Tudor v. Whitehall Central School District](#), that an employee with a disability may qualify for a reasonable accommodation under the Americans with Disabilities Act (the “ADA”), even if they can perform the essential functions of their job without accommodation.

Employer Takeaway: Employers subject to the ADA in [New York, Connecticut, and Vermont](#) specifically, due to the Second Circuit’s recent ruling, should aware that regardless of whether their employees with disabilities can perform the essential functions of the job without accommodation, they are nevertheless required to provide qualified employees with *reasonable* accommodation, unless doing so would impose an undue hardship.

President Trump Issues Executive Order Aimed at Eliminating Disparate Impact Liability

On April 23, 2025, the White House [issued an Executive Order](#) (“EO”) entitled “Restoring Equality of Opportunity and Meritocracy,” which aims to “eliminate the use of disparate-impact liability in all contexts to the maximum degree possible.”

First recognized under Title VII of the Civil Rights Act of 1964 (“Title VII”) by the U.S. Supreme Court in [Griggs v. Duke Power Co.](#) (1971), disparate impact liability provides that a policy or practice that is facially neutral and applied without discriminatory intent may nevertheless give rise to a claim of discrimination if it has an adverse effect on a protected class, such as a particular race or gender.

Employer Takeaway: This EO is the latest evidence of shifting enforcement priorities by the federal agencies tasked with enforcing civil rights laws, including the EEOC. The ultimate scope of the EO’s impact remains to be seen, particularly as it relates to the potential for preemption of disparate impact liability under state or local anti-discrimination laws.

Status Update: President Trump & DEI Executive Orders

On March 14, 2025, the U.S. Court of Appeals for the 4th Circuit [stayed](#) a nationwide preliminary injunction that temporarily blocked certain provisions of Executive Orders (EO) [14151](#) and [14173](#) issued by President Donald Trump on Jan. 20, 2025, and Jan. 21, 2025, respectively. To recap, these EOs aim to combat “illegal diversity, equity and inclusion (DEI) programs” in the federal and private sectors.

With the March 14, 2025, ruling, the 4th Circuit granted the government’s request to stay the nationwide preliminary injunction. Therefore, the Trump administration **may continue** to enforce the previously blocked provisions of the EOs, including the Termination and Certification Provisions for government contractors, employers, while the court considers the merits of the case.

Employer Takeaways:

- Prepare for uncertainty as the case is still pending, and such provisions may yet be blocked in a final ruling on the merits.
- Keep in mind that neither the initial EOs nor the 4th Circuit ruling **alter employers’ legal obligations, as employers are still prohibited from considering an individual’s protected trait** (e.g., race, color, sex, religion, age or national origin) in employment decisions.
- Employers may consider reviewing existing DEI practices to ensure they do not discriminate on the basis of a federally protected trait.

Guidance: EEOC and DOJ Issue Guidance on DEI-related Discrimination

Reminder:

- The federal district court for the district of Maryland on March 10, 2025, clarified its Feb. 21 preliminary injunction against Trump Administration enforcement of aspects of its executive orders (EOs) that ban “illegal” diversity, equity, and inclusion (DEI) programs applies across **government** - federal executive branch agencies,



departments, commissions, and their heads, officers, agents, and subdivisions. *National Association of Diversity Officers in Higher Education et al. v. Trump et al.*, No. 1:25-cv-00333 (D. Md.).

- Employers should continue assessing their DEI programming.

On March 19, 2025, the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Justice (DOJ) issued joint [guidance](#) on illegal and discriminatory diversity, equity and inclusion (DEI) practices.

The EEOC FAQs and the EEOC and DOJ joint guidance state that **DEI programs may be unlawful under Title VII if they are motivated, in whole or in part, by an employee's protected trait.**

The guidance identifies specific instances of potential DEI-related discrimination in the workplace, including:

- **Disparate treatment** in employment actions (e.g., hiring; firing; compensation; access to training, mentoring or workplace networking; and selection for interviews, including inclusion in a candidate pool) that is motivated by a protected trait;
- **Limiting, segregating or classifying** employees based on a protected trait in a way that deprives them of employment opportunities (e.g., limiting membership in workplace groups, such as employee resource groups or affinity groups, to members of a particular protected class);
- Engaging in workplace **harassment** based on a protected trait (e.g., DEI training may constitute illegal harassment if it is so severe or frequent as to be intimidating, hostile or abusive); and
- **Retaliating** against employees who engage in protected activity (e.g., objecting to DEI-related discrimination, participating in an investigation or filing a charge).

Additionally, employers may **not** justify taking **an employment action on the basis of a protected trait because they have a business interest in diversity, including a client or customer preference.**

Documents released by the joint efforts include guidance aimed at educating Employees:

- [What To Do If You Experience Discrimination Related to DEI at Work](#)
- [What You Should Know About DEI-Related Discrimination at Work](#)

Update: Acting National Labor Relations Board General Counsel Rescinds Biden-Era Memoranda

- The National Labor Relations Board's (Board) new general counsel, William B. Cowen, rescinded several guidance memos from his predecessor.
- The rescinding of these guidance memos is a strong indication of the Board's new enforcement priorities and interpretations of the National Labor Relations Act.

Under the new Trump Administration, there has been a number of recent developments at the National Labor Relations Board (Board) affecting employers. In particular, the Board's new general counsel (GC), William B. Cowen, has issued rescission memoranda that have pulled back much of the guidance issued by previous GC Jennifer Abruzzo. These GC memos are nonbinding guidance from the Board that informs employers, unions and workers about how Cowen plans to deal with novel or controversial issues.

Interested in learning or reading more. Access a recent March 19th article released by Holland & Knight [HERE](#)

Update: Corporate Transparency Act – Enforcement Paused

- On Feb. 27, 2025, FinCEN [announced](#) that it would **not enforce** the CTA reporting requirements and would issue an interim final rule in the coming weeks.
- On March 2, 2025, the Department of the Treasury issued an additional [announcement](#) that it would **not enforce** penalties under the CTA.



- This, even though on February 18, a federal court reinstated the [Corporate Transparency Act's](#) (CTA) reporting requirements, and the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) [extended](#) the CTA reporting deadline for most entities.

Employer Takeaways:

- While the CTA reporting requirements are **not currently enforced**, the CTA and its implementing regulations remain in effect and FinCEN is still accepting BOI reports.
- Employers should anticipate significant uncertainty and monitor for updates from the government and pursuant to ongoing legal challenges. ETC will continue to provide updates as released

New for Federal Contractors: Federal Contractor Minimum Wage Executive Order Revoked

After years of costly litigation surrounding executive orders establishing a minimum wage for federal contractors, on March 14, 2025, President Trump signed an executive order revoking Executive Order (EO) 14026 issued by former President Biden on April 27, 2021 (Increasing the Minimum Wage for Federal Contractors). EO 14026 set the minimum wage for workers on covered federal contracts, entered into on or after the date, to \$15.00 per hour. That minimum wage has since increased to \$17.75.

Now that the higher minimum wage for federal contractors no longer applies, the question remains: What is the current minimum wage for workers performing work on federal contracts previously covered by EO 14026?

President Obama issued EO 13658 on February 12, 2014 (Establishing a Minimum Wage for Federal Contractors), which set a minimum wage of \$10.10 for contracts and subcontracts entered into or modified on or after January 1, 2015, involving construction covered by the Davis-Bacon Act, services covered by the Service Contract Act, concessions or connected with federal property or lands, and related to services offered for federal employees, their dependents, or the general public. The minimum wage under EO 13658 has since increased to \$13.30 per hour (with a lower rate of \$9.30 for tipped employees). With the elimination of the increased minimum wage for the same contracts established by EO 14026, the current federal minimum wage for workers performing services on covered federal contracts and subcontracts entered into on or after January 30, 2022 (the effective date of the increases under EO 14026) may now be \$13.30 (the Obama-established rate). Alternatively, because EO 14026 superseded EO 13658 as of January 30, 2022, the standard federal minimum wage of \$7.25 per hour may apply to such contracts.

Further guidance from the Department of Labor is expected. At present, **if you are paying workers on federal contracts entered into on or after January 1, 2015, less than \$13.30 per hour, you may wish to seek counsel.**

Update: IRS Issues Guidance on Alternative Distribution Method for Form 1095-C

As part of the Paperwork Burden Reduction Act, signed into law on December 23, 2024, Internal Revenue Code (IRC) sections 6055(c) and 6056(c) were amended to allow the use of **the alternative method for distributing Forms 1095-B and 1095-C.**

Basically stated, employers were given the green light to simply post a general notice of availability instead of being required to individually distribute Form 1095-C.

The guidance on using the alternative method to distribute Form 1095-C was issued by the IRS on February 21, 2025

For those employers considering utilizing this alternative method for distribution of Form 1095-C, here are some key points of the requirements:

- The notice must be reasonably accessible to all individuals for whom the ALE files a 1095-C, including current employees, former employees such as COBRA enrollees and retirees.
- The notice must include an email address, a physical address and phone number where individuals can request a copy of their Form 1095-C or seek assistance with any questions.
- The notice must be written in plain, non-technical terms and with letters of a font size large enough to call attention to the fact that the information pertains to Form 1095-C.



- The notice must be posted by the Form 1095-C due date for providing the form, including the automatic 30-day extension. For 2024 forms, that date is March 3, 2025.
- The notice must remain on the website through Oct. 15 of the year following the year which the Form 1095-C relates. For 2024 forms, that date is Oct. 15, 2025.

The Notice refers to the following example as a compliant notice:

- The ALE includes a link titled “Tax Information” on its main webpage that direct users to a secondary page. The secondary page prominently displays, in capital letters, “IMPORTANT HEALTH COVERAGE TAX DOCUMENTS,” provides instructions on how employees may request a copy of Form 1095-C and includes the ALE’s email address, mailing address and phone number.

Additionally, the Notice states that an ALE must furnish a copy of Form 1095-C within 30 days of the employee’s request. The ALE may furnish the Form 1095-C electronically, if the employee consented to it.

By implementing a well-designed website notice, most employers will be able to satisfy their 1095-C distribution requirements without the cost and hassle of paper mailings.

Employers should review their current processes for distributing Forms 1095-C and determine if the alternative method of distribution is appropriate for their organization. Those electing to use the alternative method for distribution should ensure their website notices are posted before the March annual deadline for Form provision to employees.

IRS’ recent released guidance [Notice 2025-15](#)

NLRB Rescinds Biden-Era Policy Guidance on Non-Compete Agreements

On February 14, 2025, NLRB Acting General Counsel William B. Cowan rescinded a number of active General Counsel Memoranda citing an increasing “backlog of cases [grown] to the point where it is no longer sustainable.” Among those rescinded were a pair of memos issued by recently ousted NLRB General Counsel Jennifer Abruzzo that declare non-compete agreements between employers and workers illegal under the National Labor Relations Act (the “Act”). The rescission of these memos and other Biden administration policy memoranda reflect a marked shift in priorities of the agency under the Trump administration towards more pro-employer positions.

The rescission of these memos and other Biden administration policy memoranda reflect a marked shift in priorities of the agency towards more pro-employer positions. Although the NLRB maintains its authority to target individual restrictive covenants, employers are less likely to see wide-reaching agency rulemaking on non-competes in the foreseeable future. Unless Congress steps in to take action aimed at restrictive employment federally, employers are reminded that individual state regulations regarding non-competes should be adhered to by employers.

Update: Federal Court Blocks Aspects of Executive Orders Targeting DEI Efforts

On February 21, the U.S. District Court for the District of Maryland issued a nationwide preliminary injunction against three key provisions of two executive orders issued by President Trump that aim to terminate, restrict, and deter diversity, equity, and inclusion (DEI) programs in the federal government and the private sector.

The challenged executive orders are Executive Order 14151, “Ending Radical and Wasteful Government DEI Programs and Preferencing,” and Executive Order 14173, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity.” The court’s injunction applies to all of the named government defendants except for the president himself. While the court enjoined the Termination and Certification Provisions in their entirety, it only blocked a portion of the Enforcement Threat Provision.

The temporary injunction has nationwide effect and applies to all federal contractors and grantees as well as other private entities that may be subject to the Enforcement Threat Provision and will remain in effect until the court issues a final judgment on the merits of the case or until further order of the court. The Trump administration has 60 days to appeal the injunction to the U.S. Court of Appeals for the Fourth Circuit.



This case is likely to generate further litigation along with the legal challenge [filed](#) recently in Washington, D.C. federal court.

Update: Federal Government Contractors May No Longer Have 90 Days to Comply With Trump Administration's DEI Executive Order

As previously reported President Trump issued Executive Order 14173, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," issued on January 21, 2025. The Trump administration's new executive order revoked EO 11246 and expressly stated, "For 90 days from the date of this order, Federal contractors may continue to comply with the regulatory scheme in effect on January 20, 2025."

Update: On February 15, 2025, the **U.S. General Services Administration** ("GSA") issued two Federal Acquisition Regulations ("FAR") class deviations to "allow federal contracting officers to amend or modify current solicitations and contracts without penalty to the government or the contract holder." Therefore, GSA now has the power to shorten that 90-day timeline by modifying existing government contracts to include EO 14173 before April 21, 2025.

To read more about recommended next steps for Government Contractors, access a recent, February 19th, article released by Arnall, Golden, Gregory, LLP [HERE](#) additionally, Little Mendelson also released a related article update on February 20th accessible [HERE](#)

Shifts in NLRB Strategic Goals & Policy

National Labor Relations Board (NLRB) Acting General Counsel (AGC) William B. Cowen on February 14, 2025, changed the course of the agency's strategic goals by rescinding more than a dozen memos penned by former General Counsel Jennifer Abruzzo.

The repeal of several specific memos signals a shift away from the more union-friendly litigation strategy pursued by the prior general counsel. Additionally, the reasoning for scaling back the prior GC priorities was attributed to the expansive backlog of NLRB cases as well as other prior memos pending further review and guidance. The AGC's Rescission Memo reverses many of the former GC's policies, which, since 2021, were the cause of protracted litigation and expensive outcomes for employers. Cowen noted, the "unfortunate truth is that if we attempt to accomplish everything, we risk accomplishing nothing." Based on the memo, the change signals a return to a more institutionalist enforcement philosophy.

Shift in DOL Wage & Hour Unpaid Overtime Claims & Burden of Proof

A recent decision from the U.S. Court of Appeals for the Seventh Circuit offers a welcome measure of protection for employers in overtime claims brought under the Fair Labor Standards Act.

The court's opinion highlights the need for employees to provide specific and detailed evidence when pursuing claims for unpaid overtime, even when the employers fail to maintain accurate time records, versus the previous standard of employers having to disprove an employee's verbal claim of unpaid overtime.

Overview of the Case: *Osborn v. JAB Management Services, Inc.*

The Seventh Circuit affirmed the lower court's grant of summary judgment in favor of JAB, saying that Ms. Osborn failed to meet her initial burden of proving she worked any uncompensated overtime hours, finding her evidence to be vague and lacking specifics about the time spent on tasks and her overall work schedule. This lack of specificity meant that even under the relaxed "just and reasonable inference" standard for damages established in *Mt. Clemens*, Ms. Osborn could not demonstrate the amount and extent of her alleged overtime worked.

Employer Takeaway: Even though the burden of proving liability ultimately rests with the employee, this case underscores the importance of maintaining accurate time records for all employees, particularly those who work remotely or those whose hours may fluctuate, regardless of whether they're salaried nonexempt or hourly employees.

DOL Releases ERISA Enforcement 2024 Audit Results



The U.S. Department of Labor (DOL) has released the results of its Employee Benefits Security Administration's (EBSA) [enforcement actions](#) during fiscal year (FY) 2024.

Through its enforcement of the Employee Retirement Income Security Act (ERISA), the EBSA oversees approximately 2.6 million health plans, 801,00 private pension plans, and 514,000 other welfare benefit plans. According to the audit, these plans cover 156 million workers, retirees and dependents.

Enforcement Statistics

In FY 2024, EBSA recovered nearly 1.4 billion dollars for plans, participants and beneficiaries. Other key EBSA enforcement results include the following:

EBSA closed 729 civil investigations. Of these, 71% resulted in monetary results for plans or other corrective actions;

EBSA referred 53 cases for civil litigation and closed 177 criminal investigations; and

EBSA's criminal investigations led to the indictment of 68 individuals and convictions or guilty pleas of 161 individuals—including plan officials, corporate officers and service providers—for offenses related to employee benefit plans.

Enforcement Resources

The EBSA has a dedicated [enforcement webpage](#), which includes outlines of ERISA civil violations and criminal provisions, as well as enforcement accomplishments and national enforcement priorities and projects. There is also an [agency enforcement results archive](#) for prior fiscal years.

Employer Takeaway: ETC partners with employers to secure compliant and current ERISA compliance documents. Should you need updated compliance documents, reach out today to the HR team at HR_Help@etctracking.com

OSHA Form 300A Accidents & Summary Posting Obligations

Applicable employers must post OSHA Form 300A Accident Summary in a public area annually from February 1 through April 30 for previous year's accidents. More details schedule to be released through reminder e-blast reminders.

Submit Form 300A Data to OSHA - March 2, 2025

Applicable employers must submit Form 300A Data to OSHA.

The following establishments must electronically submit their form 300A data to OSHA via the agency's Injury Tracking Application (ITA) by March 2nd of the year after the calendar year covered by the form:

- Establishments that had 250 or more employees in the previous calendar year that are currently required to keep OSHA injury and illness records, and
- Establishments that had 20-249 employees in the previous calendar year that are classified in certain industries.
- <https://www.osha.gov/injuryreporting/>

Calendar Year Benefit Plan Year Employers: CMS Part D Creditable Coverage Online Disclosure – March 1, 2025

As part of the disclosure requirements under Medicare Part D, employer-sponsored group health plans that offer prescription drug coverage to Part D-eligible individuals are required to submit an electronic disclosure notice to the CMS on an annual basis no later than 60 days after the beginning of each plan year, reporting whether that coverage is creditable or non-creditable. Due to 2025 CMS changes and updates that are expected to affect the credibility of employer plans; always confirm with your carrier, even if your plans were considered credible in previous years.

Plan sponsors must submit a new disclosure to CMS no later than 60 days after the beginning of each plan year—i.e., by **March 1 for calendar year benefit plan years**



<https://www.cms.gov/Medicare/Prescription-Drug-Coverage/CreditableCoverage/CCDisclosure.html>

Creditable Coverage Determination 2025

Employers that provide prescription drug coverage to individuals who are eligible for Medicare Part D must inform these individuals and CMS whether their prescription drug coverage is **creditable**, meaning that the employer's prescription drug coverage is at least as good as Medicare Part D coverage.

Under [existing CMS guidance](#), there are a few different ways for an employer to determine whether its prescription drug coverage is creditable:

- As a first step, employers with insured prescription drug plans should ask their carriers if they have determined whether the plan's coverage is creditable.
- For self-insured plans, or where the carrier for an insured plan has not made a creditable coverage determination, employers may use a **simplified determination** as long as the coverage meets certain design requirements. If it doesn't, the employer must use an **actuarial determination method**.

Part D Redesign Program Instructions for CY 2025

Previously, CMS stated in its Draft Part D Redesign Program Instructions that the simplified determination method would no longer be valid as of calendar year (CY) 2025, given the significant changes made to Medicare Part D by the IRA. However, according to the Final Program Instructions, **CMS will continue to permit use of the simplified determination methodology, without modification, for CY 2025 for group health plan sponsors who are not applying for the retiree drug subsidy.**

CMS Resources

Additional information and resources on the IRA's changes to Medicare Part D are available on CMS' [Part D Improvements webpage](#).

Employer Takeaway: There is no penalty or fee for employers that offer prescription drug coverage that is non-creditable. Non-creditable prescription drug coverage can still be a valuable benefit for employees. However, individuals (employees & dependents) need to know whether their prescription drug coverage is creditable or non-creditable. If the coverage is non-creditable and Medicare-eligible individuals fail to enroll in Part D during their initial enrollment period, they can be subject to a higher Part D premium if they enroll in Part D at a later date.

DOL Issues Opinion Letter: FMLA & State PFML Programs

The DOL Wage & Hour Division recently issued a new Opinion Letter ([FMLA 2025-01-A](#))

- DOL has advised that state and municipal PFML will be treated in the same way as workers' compensation and paid disability leave programs under the FMLA substitution of leave regulations.
- PFML for a qualifying FMLA reason must be designated as FMLA leave.
- Employers and employees may not unilaterally require that employer-provided paid leave run concurrently with PFML designated as FMLA leave, although they may agree to this substitution.

Employer takeaway: During any part of an FMLA leave where an employee is receiving disability or workers' compensation benefits, *neither the employer nor the employee can require substitution of paid time off* because such leave is not unpaid. Rather, when disability or workers' compensation benefits are being received, the employer and the employee may only *mutually agree* (where state law permits) that accrued paid time off will be used to supplement such benefits. Likewise now, when an employee is concurrently on a state and municipal paid FML, the leave is also not technically unpaid. Thus, the employer and the employee may only *mutually agree* (where state law permits) that accrued paid time off will be used to supplement such benefits.

DOL Issues Opinion Letter: Managers & Tip-pool Tops for Nonsupervisory Time

On Jan. 14, 2025, the U.S. Department of Labor's (DOL) Wage and Hour Division (WHD) issued opinion letter [FLSA2025-1](#), addressing whether a manager or supervisor can receive tips from a tip pool when working in a nonsupervisory



capacity under the Fair Labor Standards Act (FLSA). The WHD advises that employers may not allow managers or supervisors to keep any portion of other employees' tips, including from a tip pool.

According to the WHD, an employee who meets the executive employee duties test qualifies as a manager or supervisor for purposes of Section 3(m)(2)(B) and must not receive any tips from an employer-mandated tip pool even if they spend a shift performing nonmanagerial duties. This is because an employee's primary duty is determined on at least a workweek basis and does not vary from shift to shift. However, if an employee does not meet the executive duties test, even if they are the most senior employee during a particular shift, they may receive tips from an employer-mandated tip pool.

Opinion letters provide the DOL's official position on how labor and employment standards apply in specific situations. Employers that rely on opinion letters may be able to establish a "good-faith defense" under the law.

Newly Passed Legislation Modifies ACA Reporting Requirements

On Dec. 23, 2024, President Joe Biden signed two bills into law that will streamline the Affordable Care Act's (ACA) reporting requirements under Internal Revenue Code Sections 6055 or 6056. Under these reporting rules, certain employers and health coverage providers (reporting entities) must provide information to the IRS about the health plan coverage they offer (or do not offer) to their employees. They must also provide related statements to individuals regarding their health plan coverage.

Individual Statements Only Required Upon Request

Under existing rules, reporting entities must provide annual statements to each individual who is provided minimum essential coverage (under Section 6055) and each full-time employee of an applicable large employer (under Section 6056). These statements are provided using Forms 1095-B and 1095-C; however, the IRS currently allows Forms 1095-B to be provided to individuals upon request if certain requirements are satisfied.

The [Paperwork Burden Reduction Act](#) essentially codifies this alternative manner of furnishing Forms 1095-B and extends this flexibility to furnishing Forms 1095-C. Accordingly, reporting entities are no longer required to send Forms 1095-B and 1095-C to covered individuals unless a form is requested.

Electronic Consent for Individual Statements

The IRS currently allows reporting entities to offer Forms 1095-B and 1095-C to individuals electronically. The [Employer Reporting Improvement Act](#) codifies this flexibility and provides that statements can be provided electronically to individuals if they have affirmatively consented "at any prior time" (unless they have revoked such consent in writing).

Other ACA Provisions

Applicable large employers, or ALEs (generally those with 50 or more full-time employees), are subject to IRS penalties if they do not offer affordable minimum essential coverage under the ACA's employer shared responsibility ("pay-or-play") rules. The new legislation increases the time ALEs have to respond to IRS penalty assessment warning letters from 30 days to 90 days. The legislation also imposes a six-year time limit on when the IRS can try to collect assessments.

Issued Executive Order: Targeting of Illegal DEI Efforts – Federal Contractors – April 21, 2025

Overview

President Trump's EO revising EO 11246 does not alter existing federal EEO anti-discrimination laws and employer compliance obligations, it signals the new administration's focus on *combating "discriminatory and illegal preferences, mandates, policies, programs, regulations, enforcement actions, and requirements."*



Equal Employment Opportunity (EEO) refers to fair and equal treatment for designated protected classes as defined by law. EEO means that the employer gives equal consideration for a job and terms and conditions of employment to all individuals prohibiting employers from discriminating based on race, color, religion, age, marital status, national origin, disability or sex (including sexual orientation, and gender identity or expression). Nothing has changed relative to the EEO federal regulations being applicable to all employers – federal and private, alike.

On January 21, 2025, President Trump signed an executive order (EO) titled [Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#). In addition to eliminating affirmative action for federal contractors, the EO states the Trump administration's view that certain DEI programs and policies **may** violate federal civil rights law by unlawfully discriminating against individuals based on protected characteristics.

The EO encourages employers to focus on "individual merit, aptitude, hard work, and determination" when selecting people for jobs. The EO does **not** impose any new obligations or requirements. This EO excludes certain statutory obligations such as federal contractor or private-sector employment preferences for veterans from coverage.

Notably, the **EO allows federal contractors to maintain DEI programs** so long as they do not run afoul of federal (EEO) law. The EO also revokes a number of EOs which imposed affirmative action obligations on federal contractors and subcontractors in its attempt to return to merit-based employment actions that are legal and compliant with federal anti-discriminatory regulations. The elimination of such affirmative action programs should be in place by April 21, 2025.

To Recap Has Federal Law Changed for Private-Sector Employers? No, federal antidiscrimination laws remain unchanged.

Employer Takeaways Employers should review existing DEI practices to ensure that such practices do not discriminate on the basis of a federally protected class as well comply with any applicable, state regulatory requirements. Further, employers who **are** federal contractors or subcontractors should review their DEI policies and programs as well as ensure that they eliminate noncompliant affirmative action programs by April 21, 2025. Employers committed to a fair, merit-based nondiscriminatory practices adhering to compliance with EEOC antidiscrimination regulations need not change their policies, practices or initiatives.

Article: Best Practices for Employers in Managing USCIS Administrative Onsite Inspections, ICE Raids, and Form I-9 Audits

[Akerman, LLP's January 23, 2025, publication](#) walks employers through what to expect:

- During an H1B Onsite Inspection
- During an ICE Raid & Steps Employers Should Follow
- During a Form I-9 Audit

While employers may have little to no notice of various immigration enforcement measures, adequate preparation is key to minimizing disruption and the legal consequences that could result.

Supreme Court: Clarifies Evidence Standard for FLSA Overtime Exemption Disputes

On Jan. 15, 2025, the U.S. Supreme Court issued a unanimous decision clarifying the evidentiary standard for companies to show that their employees qualify for an exemption from the FLSA's minimum wage and overtime requirements. In *EMD Sales Inc. v. Carrera*, the Court ruled that employers do not need to meet a heightened "clear and convincing" evidence standard to prove their employees are exempt from minimum wage and overtime pay. To qualify for an FLSA exemption, the Court held employers instead need only meet the "preponderance of the evidence" standard traditionally applicable in civil litigation.

Employer Takeaways:

- **Evidentiary Standard:** The Supreme Court's decision confirms that employers need only meet the preponderance of the evidence standard in defending overtime exemption claims, a lower threshold than the



"clear and convincing" standard the plaintiffs wanted to apply to this case. Employers should emphasize the important distinctions between the two standards when litigating exemption cases.

- **Outside Sales Exemption:** Employers seeking to apply the outside sales exemption should confirm that the employees (1) primary duties involve sales activities, and (2) regularly work away from the employer's business locations. Conflicting testimony over whether EMD's sales representatives made sales as opposed to carrying out the terms of sales that had already been made by others contributed to the District Court's ruling.
- **Continued Vigilance:** While this decision simplifies the evidentiary standard in overtime exemption cases, employers must continue to ensure proper classification of employees under the FLSA. Even under the preponderance standard, the burden of proof is still on *employers* to establish their employees properly qualify for an exemption from the FLSA's minimum wage and overtime requirements. Misclassification can still place employers at risk of significant employer liabilities.

Form I-9: EAD AUTOMATIC EXTENSION PERIOD LENGTHENED

Since 2022, the Department of Homeland Security has had *temporary* rules in place that extended the automatic extension period for employment authorization and Employment Authorization Documents (EADs) from 180 days to 540 days (due to processing backlogs). A permanent [final rule](#) making this 540-day extension standard will take effect **January 13, 2025**. The final rule will apply to certain renewal EAD applications pending or filed on or after May 4, 2022.

You can learn more about EAD extensions [here](#).

OSHA Revises PPE Standard for Construction Industry

See attached Legal Update.

IRS MILEAGE REIMBURSEMENT RATE

The IRS standard mileage rate will be 70 cents per mile driven for business purposes (up from 67 cents in 2024). This rate also applies to electric and hybrid vehicles. Use of this rate is optional, though it's widely accepted as an easy and standard reimbursement rate for employees who use their personal vehicle for work. If your organization uses the IRS rate to calculate mileage reimbursement, be sure to update your systems to account for this change.

FYI: DOL Announces Dual Jobs Final Rule (Tip Crediting)

On Dec. 16, 2024, the U.S. Department of Labor (DOL) announced a [final rule](#) that removes the agency's 2021 final rule (2021 Dual Jobs Rule) that updated tip regulations under the Fair Labor Standards Act (FLSA) from the Code of Federal Regulations (CFR) and reinstates regulatory text as it existed in the CFR before the effective date of the 2021 Dual Jobs Rule. The DOL's final rule is a technical correction to align regulatory text to the recent U.S. Court of Appeals for the 5th Circuit decision that [vacated](#) the DOL's 2021 Dual Jobs Rule. The final rule is scheduled to be published in the Federal Register on Dec. 17, 2024.

The final rule reinstates the text of the dual jobs regulation as it existed prior to the effective date of the invalidated rule. That text explains that if an employee is working two separate occupations (such as server and cook), the tip credit is available only when the employee is working in the tipped occupation. But it does not impose any time restrictions on the amount of non-tipped work that tipped employees may perform.

Key Highlights

- The December 2024 final rule restores the language of the dual jobs regulation to its original version, removing the language imposing the "80/20" and 30% non-tipped work restrictions added by the Biden Administration
- The technical correction was issued in response to a Fifth Circuit decision invalidating these provisions.
- Employers should review their tip credit compliance, including compliance with state law requirements.

Background

The FLSA allows employers to claim a tip credit when compensating tipped employees for tipped work. This credit allows employers to pay their tipped employees as little as \$2.13 per hour as long as they make at least the federal minimum wage when tips are factored in. Tipped employees are those engaged in occupations in which they



customarily and regularly receive more than \$30 a month in tips. The DOL recognizes that some employees routinely engage in both tipped and nontipped occupations. These are known as dual-job situations. However, there is a difference between employees with dual jobs and employees who incidentally engage in nontipped occupations, such as maintenance work and preparatory or closing activities.

On Oct. 29, 2021, the DOL [issued](#) a final rule that addressed the circumstances under which an employer can take a partial credit against its minimum wage obligations based on the tips received by employees. This rule limited the time an employee could spend on work that was not tip-producing to 20% of the employee's hours in a given workweek while still allowing the employer to claim a tip credit. The final rule distinguished between tip-producing work (e.g., waiting tables) and work that supports tip-producing work (e.g., bussing tables). The final rule also imposed a new "30-minute" restriction, limiting the continuous time during a shift that a tipped employee could spend performing tip-supporting work.

On Aug. 23, 2024, the 5th Circuit found that the DOL's 2021 Dual Jobs Rule was inconsistent with the text of the FLSA and arbitrary and capricious under the Administrative Procedure Act (APA). In doing so, the court vacated all of the 2021 final rule.

More Information: Employers can find more information and resources related to the tip regulations and the final rule on the DOL's [webpage](#).

PCORI Fee Amount Adjusted for 2025 – Due July 31, 2025

The Internal Revenue Service (IRS) has issued [Notice 2024-83](#) to increase the Patient-Centered Outcomes Research Institute (PCORI) fee amount for plan years ending on or after Oct. 1, 2024, and before Oct. 1, 2025. The updated PCORI fee amount is \$3.47 multiplied by the average number of lives covered under the plan.

For plan years that ended on or after Oct. 1, 2023, and before Oct. 1, 2024, the PCORI fee amount is \$3.22 multiplied by the average number of lives covered under the plan.

Applicability of PCORI Fee

The PCORI fee was created by the Affordable Care Act (ACA) and first applied for plan or policy years ending on or after Oct. 1, 2012. The fee is imposed on health insurance issuers and [self-insured plan \(which includes self-funded medical plans as well as level-funded medical plans\)](#) sponsors to fund comparative effectiveness research. The PCORI fee was originally scheduled to expire in 2019. However, a federal spending bill extended the PCORI fee for an additional 10 years. As a result, the PCORI fee will apply through the plan or policy year ending before Oct. 1, 2029.

Payment Deadline

PCORI fees are reported and paid annually on IRS [Form 720](#) (Quarterly Federal Excise Tax Return). These fees are due each year by July 31 of the year following the last day of the plan year. For plan years ending in 2024, the PCORI fee is due by July 31, 2025. Employers with self-insured health plans should have reported and paid PCORI fees for 2023 by July 31, 2024.

Calculating the PCORI Fee

The PCORI fees are calculated based on the average number of covered lives under the plan or policy. This generally includes employees and their enrolled spouses and dependents, unless the plan is an HRA or FSA. [Final rules](#) outline a number of alternatives for issuers and plan sponsors to determine the average number of covered lives.

Resource: State Overtime Salary Minimum Threshold

See attached chart resource.



UPDATE: Corporate Transparency Act (BOI Disclosure Requirements)

As of December 26, 2024, the injunction issued by the district court in *Texas Top Cop Shop, Inc. v. Garland* **remains in effect** and reporting companies are **not currently required to file beneficial ownership information with FinCEN**. ETC will continue to monitor the situation. Visit <https://fincen.gov/boi> for up-to-date Alerts and additional information on the federal filing requirements.

Corporate Transparency Act Halted Ahead of Jan 1 Reporting Deadline

In *Texas Top Cop Shop v Garland et al.* (case 4:24-cv-00478 December 3, 2024) , the U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction temporarily blocking the enforcement of the Corporate Transparency Act (CTA) and its reporting rule, questioning its constitutionality and its impact on small businesses. The district court's injunction against the CTA represents a significant legal development with broad implications for businesses nationwide.

The CTA, enacted back in 2021, mandates that most U.S. companies report personal identifying information about their beneficial owners to FinCEN as part of efforts to combat money laundering, sanctions busting, and other illicit financing. The court's ruling temporarily suspends these obligations, including the disclosure beneficial ownership information requirements, giving companies a temporary reprieve from the impending January 1 compliance deadline.

The nationwide injunction marks only the beginning of what is likely to be a legal battle as this decision will almost certainly be appealed to the 5th Circuit Court of Appeals and if further appealed, to the U.S. Supreme Court, if they elect to hear the case.

Considering this nationwide injunction and potential administrative changes, businesses must carefully evaluate their next steps regarding compliance with the CTA. While legal measures could limit enforcement, they do not altogether eliminate the statutory obligations under the CTA. Businesses remain legally required to comply unless the law itself is repealed or permanently enjoined by the courts.

The Nationwide Injunction

The court explicitly determined that the preliminary injunction applies nationwide. Judge Mazzant noted that both the CTA and the Reporting Rule impact approximately 32.6 million businesses across the United States. Because one of the plaintiffs, the National Federation of Independent Business (NFIB), represents members nationwide, the court concluded that a nationwide injunction was necessary to provide meaningful relief and address the extensive constitutional violations identified.

The Court's Reasoning

Judge Mazzant's opinion strongly rebuked the CTA for overstepping constitutional boundaries. He noted that corporate regulation has traditionally fallen within the states' jurisdiction. By mandating federal oversight of corporate ownership, the CTA disrupts the balance of power foundational to the U.S. federalist system. Furthermore, the court found that the act burdens businesses with significant compliance costs—projected to exceed \$22 billion in the first year alone—without clear safeguards against misuse of collected data.

The plaintiffs, including small business owners and a trade association, argued that the CTA compels speech and association, infringing on First Amendment protections. They also raised concerns about privacy violations under the Fourth Amendment, given the extensive personal information required.

Federal: DOL's 2024 Exempt Salary Rule Struck Down

On November 15, 2024, a federal court in Texas ruled that the Department of Labor had overstepped its authority with the most recent rule increasing the minimum salary for exempt employees. The July 1 increases are void, the additional increase that would have taken effect on January 1, 2025, won't happen, and the automatic increases that were scheduled to occur every three years are no more.



In short, the whole rule was thrown out and the minimums have reverted to what they were prior to July 1, 2024. This means that most executive, administrative, and professional employees need to be paid at least \$684 per week (\$35,568 annually), and not the \$844 required by the now-defunct 2024 rule. Employees classified under the highly compensated employee exemption need to be paid at least \$107,432 per year, as opposed to \$132,964.

Employees ensure compliance with any applicable state or local laws relative the minimum salary thresholds for position exemptions which remain applicable.

State Minimum Salary Thresholds – Overtime Exemption

AK: as of Jan 1, 2025: \$938.40/week \$49,796.80 annually

CA: as of Jan 1, 2025: \$1,320/week (\$68,640 annually)

CO: as of Jan 1, 2025: \$1,086.25/week (\$56,485 annually)

ME: \$845.19/week (\$43,950 annually)

NY: as of Jan 1, 2025:

In New York City, Long Island, & Westchester County

- \$1,237.50/week (\$64,350 annually)

Remainder of New York State

- \$1,161.65/week (\$60,405.80 annually)

WA: as of Jan 1, 2025:

- Small Employer (1-50 EEs) \$1,332.80/week (\$69,305.60 annually)
- Employers with 51 or more Employees \$1,499.40/week (\$77,968.80 annually)

NLRB Prohibits Captive Audience Meetings

The National Labor Relations Board (NLRB), which enforces the National Labor Relations Act (NLRA), recently decided that employers can't require employees to attend captive audience meetings under the threat of discipline or discharge. The NLRA covers private employers of all sizes and protects all nonsupervisory employees.

Captive audience meetings are mandatory meetings where employers present their views on unionization (and typically discourage employees from supporting union efforts).

However, the NLRB explained that employers can hold *voluntary* workplace meetings to express their views on unionization if, with reasonable advance notice, they inform employees that:

1. The employer intends to express its views on unionization at a meeting that is voluntary for employees to attend,
2. Employees won't be subject to discipline, discharge, or other adverse action for not attending the meeting or for leaving the meeting, *and*
3. The employer won't keep records of which employees attend, fail to attend, or leave the meeting.

In addition to communicating this information, employers have to abide by the above statements in practice as well. The new rule applies as of November 13, 2024. Employers should also review their state laws, which may have different requirements, to be sure they're compliant.

This decision is expected to face legal challenges and the NLRB may reverse its opinion on the issue once it has a majority of members appointed by the Trump administration.

Action Items

- Allow employees to opt out of any meeting covered by this decision
- Ensure that employees receive clear, advance notice for any voluntary meeting you hold about unionization that includes all the required details outlined in this decision
- Make sure supervisors understand these requirements



NLRB Expands Definition of “Unlawful Communication” to Employees Concerning Effects of Unionization on Employer-Employee Relationship

On November 8, 2024, the National Labor Relations Board (“NLRB” or the “Board”) ruled that employers can no longer broadly warn employees that unionizing may strain or negatively impact their direct relationship with management.^[1] In doing so, the Board overturned over forty years of precedent, set by *Tri-Cast, Inc.*, 274 NLRB 377 (1985), in which the Board deemed “categorically lawful” nearly any statement from employer to employee concerning the impact that unionization would have on individual employer-employee relationships.

Through its decision, the Board reinstated prior Supreme Court precedent, which found that to be lawful, an employer prediction about the negative consequences of unionization must be based in objective fact that conveys an employer’s belief of probable consequences to unionization that are beyond the employer’s control.^[2] Going forward, the Board will now consider, on a case-by-case basis, whether a “reasonable employee” could view their employer’s statements as a threat to take away a benefit if they selected representation.

Of note, however, is that this comprehensive ruling came down the same week that Donald Trump was re-elected as President. Like his predecessor, Joe Biden, Trump is expected to terminate the sitting NLRB General Counsel upon the assumption of his duties as President, and there is no doubt that we will come to see a newly constituted, Trump-appointed NLRB that is likely to be less labor-friendly in the future. However, the Biden-appointed NLRB members may very well hold a majority on the Board through 2026 and continue issuing similar decisions until then

^[1] *Siren Retail Corp. d/b/a Starbucks*, 373 NLRB No. 135 (2024).

^[2] *NLRB v. Gissel Packing Co.*, 395 U.S. 575 (1969).

Compliance Deadline Reminder: Gag Clause Attestation Is Due by Dec. 31, 2024

Effective in 2020, the [Consolidated Appropriations Act, 2021 \(CAA\)](#) prohibits health plans and health insurance issuers from entering into contracts with health care providers, third-party administrators (TPAs) or other service providers that contain gag clauses (i.e., clauses restricting the plan or issuer from providing, accessing or sharing certain information about provider price and quality and de-identified claims).

The attestation requirement applies to **fully insured and self-insured group health plans**, including ERISA plans, nonfederal governmental plans and church plans. Additionally, this requirement applies regardless of whether a plan is considered “grandfathered” under the ACA. However, plans that provide only excepted benefits and account-based plans, such as health reimbursement arrangements (HRAs), are not required to submit an attestation.

The deadline for submitting the next attestation is Dec. 31, 2024.

Employer Takeaway: Employers should review their contracts with issuers, TPAs or other health plan service providers to confirm they do not contain prohibited gag clauses.

Also, employers should review what actions they may need to take to comply with the gag clause attestation requirement:

- Employers with fully insured health plans do not need to provide an attestation if their plan’s issuer provides the attestation; and
- Self-insured employers can enter into written agreements with their TPAs to provide the attestation, but the legal responsibility remains with the health plan. While some TPAs are willing to submit attestations on behalf of their self-insured groups, other TPAs may be unwilling to do so.
- Employers with level funded health plans must check with their health plan carrier to see what the carrier is and is not doing for employers as this varies.

Employers who submit their own attestations should review the latest instructions and user manual for submitting attestations electronically through the Centers for Medicare and Medicaid Services (CMS).

Resources:

- [FAQs](#) from the Departments regarding the CAA’s prohibition on gag clauses in provider agreements



- CMS [website](#) for submitting gag clause attestations
- The latest instructions and user manual for submitting attestations available [here](#)

Beneficial Ownership Information (BOI) Reporting – Jan 1, 2025

Starting January 1, 2024, a new federal requirement is for small entities (less than 20 Full Time employees) that are NOT one of the 23 exemptions are required to register their business ownership information (BOI) to the Financial Crimes Enforcement Network (FinCEN). The Corporate Transparency Act (“CTA”) went into effect January 1, 2024, requiring most legal entities in the United States to file a beneficial ownership information report (“BOI Report”) with the U.S. Financial Crimes Enforcement Network (“FinCEN”). Before January 1, 2025, *all* covered entities must file a BOI Report through FinCEN’s electronic [filing system](#).

Beneficial ownership information reporting is not an annual requirement.

Unless a company needs to update or correct information, a report only needs to be submitted once.

For details on who, when, and how to fulfill this new federal reporting requirement, please visit: [Beneficial Ownership Information Reporting | FinCEN.gov](#)

If you find that you need assistance and/or wish to have this obligation completed by a Third Party, ETC can provide employers with the contact details of a party who can assist.

Federal Retirement & Benefit Limits – 2025

2025 Retirement Plan Maximums

On November 1, 2024, the IRS released the 2025 limits for retirement plans and individual retirement accounts. You can find the full list of the new amounts in [IRS Notice 2024-80](#).

A few of the notable changes include the following:

- The annual contribution limit for 401(k) plans will increase nominally to \$23,500 (from \$23,000)
- The annual catch-up contribution limit remains the same at \$7,500 for participants age 50 and over
- A new category of catch-up contributions, introduced by the SECURE Act 2.0, allows participants between ages 60 to 63 to contribute up to \$11,250 annually

2025 Annual Benefit Maximums

The IRS published the 2025 limits for several types of benefits that have maximums subject to annual change. You can find the full list of the new amounts in the [IRS Revenue Procedure 2024-40](#).

The most commonly asked about limits are below and are applicable to taxable years starting in 2025.

Health Flexible Spending Account (HFSA)

The HFSA contribution limit is \$3,300. For HFSA that include a carryover feature, the maximum carryover is \$660.

Qualified Small Employer Health Reimbursement Arrangement (QSEHRA)

The maximum total for all QSEHRA reimbursement and payments is \$6,350 for single coverage and \$12,800 for family coverage.

Adoption Assistance Programs

The maximum employee tax credit and amount an employer can provide for adoption assistance is \$17,280. The tax credit begins to phase out for individuals with a modified adjusted gross income above \$259,190 and is completely phased out at \$299,190 and above.

Qualified Commuter Plans—Mass Transit and Parking

The monthly limits for both qualified parking and mass transit is \$325.

Draft Forms & Instructions for 2024 ACA Reporting Now Available

For more information, see the September HR WIRE

Deadline Reminders:



March 3, 2025 - Individual statements for 2024 must be furnished within 30 days of Jan. 31, 2025. An alternative method of furnishing Form 1095-B is available. Because the deadline falls on a weekend, the individual statements must be furnished by the next business day, which is March 3, 2025.

March 31, 2025 - Electronic IRS returns for 2024 must be filed by March 31, 2025.

Resources:

The IRS provides the following resources for reporting entities:

- [Information Reporting by Providers of Minimum Essential Coverage](#)
- [Q&As: Information Reporting by Health Coverage Providers \(Section 6055\)](#)
- [Information Reporting by Applicable Large Employers](#)
- [Q&As: Employer Information Reporting on Form 1094-C and Form 1095-C](#)
- [Q&As: Reporting of Offers of Health Insurance Coverage by Employers \(Section 6056\)](#)

Should you have any ACA needs, please do not hesitate to reach out to ETC.

ACA & Affordability - 2025

The Internal Revenue Service (IRS) has released [Rev. Proc. 2024-35](#), which contains the inflation adjusted amounts for 2025 used to determine whether employer-sponsored coverage is “affordable” for purposes of the Affordable Care Act’s (ACA) employer shared responsibility provisions and premium tax credit program.

As shown in the table below, for plan years beginning in 2025, the affordability percentage for employer mandate purposes is indexed to 9.02%. This is a slight increase from 2024. Employer shared responsibility payments are also indexed and decreased for the first time in 2025.

See the September HR WIRE for more information.

HIPAA Policies/Practices for New Reproductive Health Care Rights

Beginning **December 23, 2024**, regulated entities and their business associates must comply with stricter [HIPAA privacy protections](#) for reproductive health care.

Important dates

Dec. 23, 2024 - Regulated entities must comply with the new privacy restrictions for reproductive health care.

Feb. 16, 2026 - Covered entities (which an employer may be) must update their **HIPAA notice of privacy practices** for the new requirements.

These new protections **prohibit regulated entities from using or disclosing protected health information (PHI) related to lawful reproductive health care:**

- For a criminal, civil or administrative investigation into (or proceeding against) a person in connection with reproductive health care; or
- To identify an individual, health care provider or other person for purposes related to such an investigation or proceeding.

In addition, regulated entities must **obtain a valid attestation when a request is made to use or disclose PHI potentially related to reproductive health care** for certain purposes to ensure that the use or disclosure is permissible. The new privacy protections **do not impact employers with fully insured health plans that do not have access to PHI (other than the limited types listed above).**

Although the new privacy protections do not specifically require updates to business associate agreements, if applicable, employers should review the terms of their agreements to determine if updates should be made. Lastly, the U.S. Department of Health and Human Services has provided a [model attestation form](#) that **employer-sponsored health plans may use** to ensure a requested use or disclosure of PHI complies with the new privacy protections.

Medicare Part D Notices Are Due Before Oct. 15, 2024



Each year, Medicare Part D requires group health plan sponsors to disclose to individuals who are eligible for Medicare Part D and to the Centers for Medicare and Medicaid Services (CMS) whether the health plan's prescription drug coverage is creditable.

Plan sponsors must provide the annual disclosure notice to Medicare-eligible individuals before Oct. 15, 2024—the start date of the annual enrollment period for Medicare Part D. CMS has provided [model disclosure notices](#) for employers to use.

CMS has provided two model notices for employers to use:

- A [Model Creditable Coverage Disclosure Notice](#) for when the health plan's prescription drug coverage is creditable; and
- A [Model Non-creditable Coverage Disclosure Notice](#) for when the health plan's prescription drug coverage is not creditable.
- These model notices are also available in Spanish on CMS' [website](#).

This notice is important because Medicare beneficiaries who are not covered by creditable prescription drug coverage and do not enroll in Medicare Part D when first eligible will likely pay higher premiums if they enroll at a later date. Although there are no specific penalties associated with this notice requirement, failing to provide the notice may be detrimental to employees.

Voting Leave Compliance Obligations

Voting Leave:

Most states require that employers provide at least a few hours off to vote, and sometimes those hours need to be paid. Often these laws require very little advance notice from employees about their need for leave, so employers should be prepared to grant last-minute requests to leave work to vote.

If you're in a state with early voting, you may want to encourage employees to take advantage of that option—by offering the same time-off benefit—to reduce the number of absences on Election Day. The availability of early voting and absentee ballots, however, doesn't change an employee's right to vote on Election Day if that's their preference.

Required Notices:

California, DC, and New York also require that employers post a notice about employees' voting rights in a conspicuous location in the workplace. Employees who work from home or don't report to the workplace regularly should be provided with these notices electronically.

California

California requires the notice to be posted at least 10 days before the November 5 election—which is October 26, a Saturday. If you're closed on Saturdays, we recommend posting or sending this notice by Friday the 25th. California's notice can be found in English [here](#) and in other languages [here](#).

The District of Columbia

DC requires that employers post a voting leave notice created by the DC Board of Elections (DCBOE) at least 60 days before the November 5 election—which is September 6. If you provide this notice electronically for remote employees, you need to get their acknowledgment of receipt. This election's notice can be found in English and in other languages [here](#). The DCBOE has a [web page](#) with additional information.

New York

New York requires the notice to be posted at least 10 working days before the November 5 election (this would be October 22 for a Monday through Friday workplace). New York's notice is available [here](#).

Navigating Election Season as an Employer

Employers may encounter a number of challenges during election season, as politics may introduce heightened tension and conflict in the workplace. In addition, employers must contend with a range of laws governing political



speech, activity and related conduct. Therefore, it is important for employers to take proactive steps to encourage a civil workplace and avoid potential legal pitfalls. This Compliance Bulletin provides guidance employers may use to navigate politics in the workplace.

Among the issues employers may want to consider in the lead-up to the election include:

- Employee rights and restrictions with respect to political speech in the workplace;
- Employee rights regarding off-duty conduct, including social media use and other political activity;
- Employer rights to and restrictions on political speech and activities; and
- Employee voting leave rights

See the attached, stand-alone resource which walks through each of the above considerations.

Draft Forms & Instructions for 2024 ACA Reporting Now Available

In July 2024, the Internal Revenue Service (IRS) released draft 2024 forms for reporting under Internal Revenue Code Sections 6055 and 6056. Thereafter, on Sept. 4, 2024, and Sept. 13, 2024, respectively, the draft instructions for the B series forms and C series forms were released.

- The 2024 draft Forms [1094-B](#) and [1095-B](#) (and related [draft instructions](#)) can be used by providers of minimum essential coverage—including self-insured plan sponsors that are not applicable large employers (ALEs)—to report under Section 6055.
- The 2024 draft Forms [1094-C](#) and [1095-C](#) (and related [draft instructions](#)) can be used by ALEs to report under Section 6056 as well as for combined Section 6055 and 6056 reporting by ALEs that sponsor self-insured plans.

To date, no major changes were made to the draft forms or instructions for 2024 reporting.

Electronic Filing Requirement

The electronic filing threshold for returns required to be filed on or after Jan. 1, 2024, is 10 or more returns (originally, the threshold was 250 or more returns).

Employer Takeaway: Employers should become familiar with the draft forms and instructions for 2024 calendar year reporting.. Employers should also monitor future developments for the release of the final forms and instructions.

Deadline Reminders:

March 3, 2025 - Individual statements for 2024 must be furnished within 30 days of Jan. 31, 2025. An alternative method of furnishing Form 1095-B is available. Because the deadline falls on a weekend, the individual statements must be furnished by the next business day, which is March 3, 2025.

March 31, 2025 - Electronic IRS returns for 2024 must be filed by March 31, 2025.

Resources:

The IRS provides the following resources for reporting entities:

- [Information Reporting by Providers of Minimum Essential Coverage](#)
- [Q&As: Information Reporting by Health Coverage Providers \(Section 6055\)](#)
- [Information Reporting by Applicable Large Employers](#)
- [Q&As: Employer Information Reporting on Form 1094-C and Form 1095-C](#)
- [Q&As: Reporting of Offers of Health Insurance Coverage by Employers \(Section 6056\)](#)

Should you have any ACA needs, please do not hesitate to reach out to ETC.

2025 ACA & Affordability

The Internal Revenue Service (IRS) has released [Rev. Proc. 2024-35](#), which contains the inflation adjusted amounts for 2025 used to determine whether employer-sponsored coverage is “affordable” for purposes of the Affordable Care Act’s (ACA) employer shared responsibility provisions and premium tax credit program.



As shown in the table below, for plan years beginning in 2025, the affordability percentage for employer mandate purposes is indexed to 9.02%. This is a slight increase from 2024. Employer shared responsibility payments are also indexed and decreased for the first time in 2025.

Under the ACA, applicable large employers (ALEs) must offer affordable health insurance coverage to full-time employees. If the ALE does not offer affordable coverage, it may be subject to an employer shared responsibility payment. An ALE is an employer that employed 50 or more full-time equivalent employees on average in the prior calendar year. Coverage is considered affordable if the employee's required contribution for self-only coverage under the employer's lowest-cost, minimum value plan does not exceed 9.02% of the employee's household income in 2025 (prior years are also shown above). An ALE may rely on one or more safe harbors in determining if coverage is affordable: W-2, Rate of Pay, and Federal Poverty Level.

If the employer's coverage is not affordable under one of the safe harbors and a full-time employee is approved for a premium tax credit for Marketplace coverage, the employer may be subject to an employer shared responsibility payment.

Code Section	4980H(a)	4980H(b)	36B(b)(3)(A)(i)
Description	Coverage not offered to 95% of (or all but 5) full-time employees. "No Offer" penalty	Coverage offered, but unaffordable or is not minimum value. "Affordability" penalty	Premium credits and affordability safe harbors.
	\$2,900	\$4,350	9.02%
	\$2,970	\$4,460	8.39%
	\$2,880	\$4,320	9.12%
	\$2,750	\$4,120	9.61%
	\$2,700	\$4,060	9.83%

Employer Takeaways:

This change in the affordability threshold for next year affords employers only a modest increase from 2024 in terms of setting affordability.

As such, Applicable Large Employers should do the following in preparation for 2025:

- Familiarize themselves with the updated, increased affordability percentage for plan years beginning in 2025.
- Factor in this increase when setting employee contribution rates for plan years beginning in 2025 to ensure coverage will be affordable. For employers with non-calendar year plans, use the affordability percentage in place at the start of the plan year.
- Be prepared to file forms 1094-C and 1095-C with the IRS electronically in 2025
- Check to ensure prior year forms have been filed and accepted by the IRS. Employers who e-file receive a receipt ID if their filing is "accepted" or "accepted with errors."



DOL Issues “AI & Inclusive Hiring Framework”

On September 24, 2024, the U.S. Department of Labor (DOL) [announced](#) publication of its “[AI & Inclusive Hiring Framework](#)” website, described as “a new tool designed to support the inclusive use of artificial intelligence in employers’ hiring technology and increase benefits to disabled job seekers.” Previously, DOL released [AI Principles](#), with guidance for employers and AI developers about designing and implementing AI systems in the workplace. DOL issued these AI Principles at the direction of President Biden’s [Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence](#). The AI Executive Order and AI Principles did not specify what practices run afoul of the AI Principles, but DOL’s AI Framework seeks to “chart[] a clear course for employers to navigate” implementation of AI systems in the workplace.

Within the AI Framework website, however, PEAT attempts to provide employers with resources to consider when implementing AI systems.

Employers Takeaways: Employers should regularly assess their AI use and the impact of AI systems in the workplace, not only for employees, but also applicants. Agencies are expected to issue more AI-focused guidance and publications going forward. To date, these publications primarily emphasize avoidance of disability discrimination.

HIPAA Policies/Practices for New Reproductive Health Care Rights

Beginning December 23, 2024, regulated entities and their business associates must comply with stricter [HIPAA privacy protections](#) for reproductive health care.

These new protections **prohibit regulated entities from using or disclosing protected health information (PHI) related to lawful reproductive health care:**

- For a criminal, civil or administrative investigation into (or proceeding against) a person in connection with reproductive health care; or
- To identify an individual, health care provider or other person for purposes related to such an investigation or proceeding.

In addition, regulated entities must **obtain a valid attestation when a request is made to use or disclose PHI potentially related to reproductive health care** for certain purposes to ensure that the use or disclosure is permissible.

The new privacy protections impact:

- **Employers with self-insured health plans;** and
- **Employers with fully insured health plans that have access to PHI (other than enrollment information, summary health information and information released pursuant to a HIPAA authorization) from their issuers.**

The new privacy protections **do not impact employers with fully insured health plans that do not have access to PHI (other than the limited types listed above).**

Although the new privacy protections do not specifically require updates to business associate agreements, if applicable, employers should review the terms of their agreements to determine if updates should be made.

Lastly, the U.S. Department of Health and Human Services has provided a [model attestation form](#) that **employer-sponsored health plans may use** to ensure a requested use or disclosure of PHI complies with the new privacy protections. **Health plans** must also update their HIPAA privacy notices for the new privacy protections, although they have until Feb. 16, 2026, to make these updates.

Important dates

Dec. 23, 2024 - Regulated entities must comply with the new privacy restrictions for reproductive health care.

Feb. 16, 2026 - Covered entities (which an employer may be) must update their **HIPAA notice of privacy practices** for the new requirements.



ETC will continue to monitor as HHS is likely to publish Model HIPAA Notice of Privacy Practice (NPPs) inclusive of references to the regulatory changes.

EBSA Releases Updated Cybersecurity Guidance for Employee Benefit Plans

Plan fiduciaries (Employers) of ERISA-covered *pension and health and welfare plans* have an obligation to ensure proper mitigation of cybersecurity risks, and because employers often rely on service providers to maintain plan records and keep participant data confidential and plan accounts secure, it is critical to use service providers that follow strong cybersecurity practices.

The Compliance Release, [Compliance Assistance Release No. 2024-01](#), issued by DOL Employee Benefits Security Administration (EBSA), clarifies that the cybersecurity guidance **applies to all types of plans covered by the Employee Retirement Income Security Act of 1974 (ERISA), including health and welfare plans and all employee pension benefit plans.**

EBSA is providing the following updated guidance:

1. **[Tips for Hiring a Service Provider](#)**: This guidance helps plan sponsors and fiduciaries prudently select a service provider with strong cybersecurity practices and monitor their activities, as required by ERISA.
2. **[Cybersecurity Program Best Practices](#)**: This guidance assists plan fiduciaries and recordkeepers in their responsibilities to manage cybersecurity risks.
3. **[Online Security Tips](#)**: This guidance offers plan participants and beneficiaries who check their retirement accounts or other employee benefit information online basic rules to reduce the risk of fraud and loss.

Additional Resources

The U.S. Department of Health and Human Services also offers publications that may help health plans and their service providers maintain good cybersecurity practices, as follows:

- [Health Industry Cybersecurity Practices: Managing Threats and Protecting Patients](#)
- [Technical Volume 1: Cybersecurity Practices for Small Healthcare Organizations](#)
- [Technical Volume 2: Cybersecurity Practices for Medium and Large Healthcare Organizations](#)

5th Circuit Upholds DOL's Authority to Set Minimum Salary Requirement for White-collar FLSA Exemptions

If you have been following current federal cases potentially impacting employers, On Sept. 11, 2024, in *Mayfield v. U.S. Department of Labor*, the U.S. Court of Appeals for the 5th Circuit [held](#) that the U.S. Department of Labor's (DOL) **has** the authority to define and delimit the terms of the executive, administrative and professional (EAP) exemptions including the power to set a minimum salary for exemption under the Fair Labor Standards Act (FLSA).

In *Mayfield*, the plaintiff, a small business owner, challenged the DOL's 2019 final rule, arguing that the agency lacks the authority to define the FLSA executive, administrative and professional (EAP) exemptions in terms of salary level.

Decision Impact: The 5th Circuit's ruling is significant, as it provides support for the DOL's authority to implement its [2024 final rule](#) that amended current requirements employees in white-collar occupations must satisfy to qualify for an overtime exemption under the FLSA. The final rule took effect on July 1, 2024, increasing the standard salary level from \$684 to \$844 per week (\$35,568 to \$43,888 per year) for EAP employees and \$107,432 to \$132,964 per year for HCEs. On Jan. 1, 2025, the salary level will again increase from \$844 to \$1,128 per week (\$43,888 to \$58,656 per year) for EAP employees and \$132,964 to \$151,164 per year for HCEs. The rule also enables the DOL to update the salary levels automatically every three years starting July 1, 2027. The DOL's 2024 final rule is currently facing several other legal challenges from businesses in multiple jurisdictions. ETC will continue to monitor and report developments as there remain several other legal challenges to the upcoming increased salary threshold effective Jan 1, 2025.



OSHA Releases New Online Severe Injury Report Dashboard

On Sept. 4, 2024, OSHA released an online [tool](#) giving users the ability to search its severe injury report (SIR) database and view trends related to workplace injuries occurring in states covered by federal OSHA.

OSHA requires that employers report all severe work-related injuries, such as amputations, in-patient hospitalizations or losses of an eye, within 24 hours of the incident. This reporting requirement began on Jan. 1, 2015. Until now, there has been no centralized data point that provided an interactive view of severe injuries across federal OSHA states. The SIR dashboard allows users to search and download data by year, industry, state, establishment name, and occupational injury and illness classification system codes. The dashboard includes information on all severe injuries reported by employers covered under federal OSHA since 2015.

Injuries are coded using the occupational injury and illness classification system. Employers view the data according to selected filters. In addition, the entire SIR dataset can be downloaded.

OSHA states that the data will be updated periodically, and it represents incidents under federal OSHA jurisdiction only. The online tool does not include incidents under state plan jurisdictions.

Employer Takeaway: Be aware that employer establishment data is searchable and the data pulled shows establishment names. Employers are encouraged to use the dashboard to learn how severe injuries happen in their industries.

IN THE NEWS! Legal Cases to Watch – Fall 2024

The Supreme Court's next term, which starts **Oct. 7, 2024**, will also decide cases that will impact the workplace with topics including:

- **Employee misclassification**—The court will decide the burden of proof employers must satisfy to establish an exemption from minimum wage and overtime requirements under the Fair Labor Standards Act (FLSA). *E.M.D. Sales Inc. v. Carrera*
- **Post-employment ADA discrimination**—The court will decide whether a former employee has the right to sue their former employer under the Americans with Disabilities Act (ADA). *Stanley v. City of Sanford, Florida*

More to come as decisions and rulings are announced.

USCIS has extended the expiration date of the current Form I-9 to May 31, 2027.

Employers that use the Form I-9 with the expiration date of July 31, 2026, can continue using it until that date.

Effective July 31, 2026, only Form I-9 (Rev. 08/01/23) with the expiration date of May 31, 2027, will be accepted.

Form I-9 with the updated expiration date can be found on the USCIS [website](#).

USCIS [announced](#) Form I-9's new expiration date on August 2, 2024.

FTC Noncompete Ban Struck Down Nationwide

The U.S. District Court for the Northern District of Texas's decision in *Ryan v. Federal Trade Commission* was issued on August 20, 2024, with a federal judge striking down the Federal Trade Commission (FTC)'s rule that banned virtually all noncompete clauses. The court concluded that the FTC exceeded its authority when it issued the rule and that the rule itself was overbroad because it applied to *all* noncompete clauses rather than targeting those that were harmful.

Access the federal [order](#).

Employer Takeaway: In light of the Texas court's ruling, employers will not need to take steps in the immediate term to invalidate existing noncompetes, update agreements or issue notices. Employers may also continue to rely on state-level guidance regarding the enforceability of noncompetes. However, the FTC will likely appeal the ruling, so employers should continue to monitor for updates in this case.

Increased Civil Penalty Amounts for SBC, MSP, HIPAA Violations



Aug. 8, 2024, the U.S. Department of Health and Human Services (HHS) published a [final rule](#) increasing key penalties affecting group health plans. HHS adjusts these penalty amounts for inflation each year to improve their effectiveness and maintain their deterrent effect.

Employer Takeaway: Because these penalties are substantial, employers with group health plans should periodically review their benefit plan administration protocols to ensure full compliance.

Summary of Benefits and Coverage (SBC) (Typically distributed at Open Enrollment)

The Affordable Care Act requires group health plans and health insurance issuers to provide participants and beneficiaries with a summary of benefits and coverage (SBC). Failure to provide the SBC may now result in a penalty of up to \$1,406 per participant or beneficiary (up from \$1,362).

Medicare Secondary Payer (MSP)

When Medicare is the secondary payer, employers cannot discourage employees from enrolling in their group health plan and cannot offer any “financial or other incentive” for an individual entitled to Medicare not to enroll or to terminate enrollment in a group health plan that would otherwise be primary. A violation of the prohibition on offering incentives can now trigger penalties of up to \$11,524 (up from \$11,162). The penalty for insurers, third-party administrators, or fiduciaries of a group health plan that fail to provide information identifying situations where the group health plan is or was primary is now \$1,474 (up from \$1,428).

HIPAA Privacy and Security Rules

Penalties for a covered entity or business associate violating the Health Insurance Portability and Accountability Act’s (HIPAA) privacy and security rules will depend on the type of violation involved. Penalties are broken down into “tiers” that reflect increasing levels of knowledge about the violation. Each tier carries a minimum and maximum penalty with an annual cap, all of which have increased as follows:

Tier One: For violations where the covered entity or business associate did not know about the violation (and by exercising reasonable diligence, would not have known about the violation), the penalty amount is between \$141 and \$71,162 for each violation, with an annual cap of \$2,134,831.

- Tier Two: If the violation is due to reasonable cause, the penalty amount is between \$1,424 and \$71,162 for each violation, with an annual cap of \$2,134,831.
- Tier Three: For corrected violations that are caused by willful neglect, the penalty amount is between \$14,232 and \$71,162 for each violation, with an annual cap of \$2,134,831.
- Tier Four: For violations caused by willful neglect that are not corrected, the penalty amount is \$71,162 for each violation, with an annual cap of \$2,134,831.

Compliance Reminder: SAR Is Due by **Sept. 30 for Calendar Year Plans *(for Some Employers)***

Many employers that must file Form 5500 on behalf of their employee benefit plans must also provide plan participants with a summary annual report (SAR). The SAR is a summary of the information included in the Form 5500. (Reminder: Employers with large fully insured welfare plans with 100 or more employee plan participants must adhere to Form 5500 SAR obligations each year. Employers with self-insured, unfunded plans are not subject to the SAR requirement, regardless of plan size.)

Covered Employers with plans that operate on a calendar year basis and have Form 5500 compliance obligations must provide the SAR by **Sept. 30, 2024**.

The SAR requirement only applies to plans that must file a Form 5500. Also, self-insured welfare plans, regardless of size, are not required to provide a SAR if they are unfunded.

The DOL has released a [model SAR](#) relating to welfare plans for plan years beginning in 2023 and later. Acceptable delivery methods for the SAR include U.S. mail, in-hand delivery and electronic delivery, if certain requirements are satisfied.

IN THE NEWS! Fifth Circuit Strikes Down the DOL Tip Credit Rule



On August 23, 2024, in *Restaurant Law Center v. U.S. Department of Labor*, the U.S. Court of Appeals for the Fifth Circuit vacated the U.S. Department of Labor's ("DOL") December 2021 final rule that had set strict limits on the amount of time that employers could apply a "tip credit" to tipped employees performing non-tipped job duties (the "Tip Credit Rule"). As a result, the Tip Credit Rule has been voided on a nationwide basis.

The FLSA and Tip Credits

Under the Fair Labor Standards Act ("FLSA"), employers may take advantage of a "tip credit" for employees engaged in occupations in which they customarily and regularly receive more than \$30 per month in tips. This "tip credit" allows the employer to pay tipped employees \$2.13 per hour, so long as the employee makes at least \$7.25 per hour (i.e., the federal minimum wage) when tips are added to the total amount of wages paid to the employee.

The Tip Credit Rule

In 1988, the DOL first published the "80/20" rule in its Field Operations Handbook. Under that rule, if an employee spends more than 20% of their time during a workweek performing non-tipped job duties (i.e., setting tables, making coffee, etc.), the employer must pay the employee the full minimum wage for the time spent on such "directly supporting work" and may not apply any tip credit to lower the employee's wages for that work.

The 80/20 rule remained in place until the DOL rescinded the guidance in a 2009 opinion letter, but the rule was later re-issued in 2018 under the Trump administration. In December 2021, the DOL issued the Tip Credit Rule, which largely codified the 80/20 rule described above, but identified three categories of work that dictated whether employers could apply a tip credit to work performed by tipped employees. Namely, the categories of work included:

- (1) tip-producing work (i.e., providing table service);
- (2) directly supporting work (i.e., setting tables); and
- (3) work not part of the tipped occupation (i.e., preparing food).

The Tip Credit Rule also stated that an employee must be paid the full minimum wage if they spend more than 30 minutes on "directly supporting work" at any given time.

Employer Takeaway

The *Restaurant Law Center v. U.S. Department of Labor* decision is seen as a big win for hospitality employers. **Employers no longer need to distinguish between tip-producing and tip-supporting work or monitor the time spent performing tip-supporting duties.** However, employers are still subject to local or state laws that are more beneficial to employees or that prohibit tip credits entirely. And as was the case before, employers can't take a tip credit when an employee performs tasks *unrelated* to their tipped occupation.

That being said, employers should stay tuned for any future developments as the DOL may appeal the decision and it is possible that other courts outside of the Fifth Circuit may rule that the Court lacked authority to impact the Tip Credit Rule on a nationwide basis. Notably, this ruling does not impact the DOL's "dual jobs" regulation, which provides that when an employee is working for the same employer in both a tipped and non-tipped occupation (i.e., a waiter and a maintenance person), the employer may only take tip credits for the work performed as part of the employee's tipped occupation. Employers should also be wary of any state or local laws or regulations governing tipped employees.

Compliance Reminder - Form 5500 Reporting

For employers with **calendar-year benefit plans** who **ALSO** had **at least 100 covered employee participants** (covered employees and former employees on COBRA) on the first day of the plan year....Form 5500 is due by July 31st, unless an extension is requested.

Most benefit plans with less than 100 covered participants will not be subject to Form 5500 reporting, but you should contact your Health & Welfare Broker to ensure you qualify for this exception. See also ETC's Compliance Clander Resource. If you are need of Form 5500 Services, please reach out to ETC today at hr_help@etctracking.com

OSHA Issues Proposed Health Rule (Indoor & outdoor) Work



The Occupational Safety and Health Administration announced its long-anticipated **proposed rule** Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings on July 2, 2024.

The proposed rule takes a large-scale approach to regulating heat injury and illness issues, requiring employers to develop robust Heat Injury and Illness Prevention Plans for indoor and outdoor heat hazards, regularly monitor temperatures at the work site, and implement control measures at two distinct heat exposure thresholds.

Under the new Rule:

- The [proposed rule](#) applies to all employers with a “reasonable expectation” of employee exposure to certain heat thresholds, it provides for some limited exceptions.
- There are two, defined applicable heat thresholds & detailed employer procedures
- Employers must develop a Prevention Plan, conduct training as well as perform monitoring requirements

Once published in the Federal Register, the public is encouraged to submit written comments on the rule.

To learn more, access the July 10th Morgan Lewis article [HERE](#)

NLRB Voluntarily Withdraws Joint-employer Rule Appeal

Timeline

- On March 8, 2024, a federal judge blocked the implementation of the NLRB’s 2023 joint-employer standard, which was set to take effect on March 11, 2024.
- On May 7, 2024, the NLRB appealed the federal judge’s decision to the U.S. Court of Appeals for the 5th Circuit.
- On July 19, 2024, the NLRB voluntarily [dismissed its appeal](#).
- **The 2020 joint-employer rule remains in effect.**
- Employers should rely on the 2020 joint-employer rule to determine where joint employment exists.

On July 19, 2024, the National Labor Relations Board (NLRB) voluntarily dismissed its appeal of the U.S. District Court for the Eastern District of Texas decision vacating the NLRB’s [2023 joint-employer rule](#). The rule, which had been set to take effect on March 11, 2024, **would have expanded** the types of control over job terms and conditions that trigger joint employment.

2020 Joint-employer Standard Recap:

The 2020 standard considers the “**substantial direct and immediate control**” employers have over essential terms and conditions of employment for individuals who are employed by another organization.

Specifically, the 2020 joint-employer standard indicates that a business is a joint employer of another employer’s employees **only if** the degree of joint control is of sufficient magnitude to conclude that the joint employer meaningfully affects matters relating to the employment relationship.

Employer Takeaway: Employers should ensure they rely on the 2020 joint-employer standard to determine where joint employment exists.

Labor and Employment Issues in a Post-Chevron World

With the US Supreme Court’s June 28 decision in *Loper Bright Enterprises v. Raimondo* and *Relentless v. Department of Commerce*, the four-decades *Chevron* doctrine is no longer. While the Court’s decision has altered **administrative jurisprudence** as we have come to know it, its impact on labor and employment agency action may vary from sweeping change to a continuation of the status quo.

With *Loper Bright*, federal courts have been directed not to defer to administrative agencies’ interpretations of ambiguous or broad statutes, save for narrow exceptions such as express delegations. Instead, federal courts must exercise independent judgment when reviewing statutory text and use traditional tools of statutory construction to find the “best meaning” of the statute. The agency simply presenting a “reasonable” or “permissible” construction of an ambiguous statute is not sufficient for it to prevail.



That said, the Supreme Court made clear in *Loper Bright* that all existing judicial decisions upholding agency rules and orders are not automatically overruled by the new decision, even if courts relied on *Chevron* in those earlier decisions. Time will certainly provide greater insight into the implications of the recent Decision.

IN THE NEWS - Texas Federal District Court Partially Blocks the FTC's Employer Noncompete Ban

Timeline:

- In April, the Federal Trade Commission (FTC) issued an administrative rule that will essentially ban all noncompete agreements effective September 4, 2024.
- On July 3, 2024, the Northern District of Texas put the FTC noncompete ban on hold, only with respect to the plaintiffs, until it issues a final decision in a case challenging the ban's validity.
- For all other employers, the noncompete ban is still scheduled to take effect on Sept. 4, 2024.
- The court stated that it intends to rule on the merits of the case on or before Aug. 30, 2024.
- Depending on the outcome, the ruling could affect the ban's effective date nationwide, so employers should continue to monitor for updates.

On July 3, 2024, the U.S. District Court for the Northern District of Texas [granted](#) the plaintiffs' motion in *Ryan LLC v. FTC* for a preliminary injunction to block the Federal Trade Commission's (FTC) noncompete ban while the court considers the merit of the case. The injunction applies only to the plaintiffs in the case: a Texas employer, the U.S. Chamber of Commerce and other business organizations. As such, **employers who are NOT parties to the suit are not covered under the injunction**. The court intends to rule on the merits of the case by Aug. 30, 2024, before the ban's scheduled effective date of Sept. 4, 2024.

Impact on Employers:

Per the court's decision, the effective date of the noncompete ban is stayed only for the plaintiffs; it does not apply nationwide. Therefore, other employers may still take steps to ensure compliance with the law on the effective date of Sept. 4, 2024. However, the court indicated its plan to issue a ruling by Aug. 30, 2024.

In addition, the U.S. District Court for the Eastern District of Pennsylvania scheduled a hearing in a separate case seeking a preliminary injunction of the noncompete ban on July 10, 2024, and is expected to issue a ruling by July 23, 2024. Employers should continue to monitor for updates and wait to implement any final changes, as the final ruling in this case or other legal challenges could still result in the ban being modified, delayed or even vacated.

Additionally, on April 23rd, the same day of the filing of the Ryan LLC lawsuit, the U.S. Chamber of Commerce (the nation's largest business advocacy group) filed a similar lawsuit in the Eastern District of Texas seeking to do the same. Since then, another lawsuit was filed in the Eastern District of Pennsylvania (*ATS Tree Services, LLC v. Federal Trade Commission et al.*). Each of these lawsuits take similar form. They contend the FTC lacks authority to engage in rulemaking of substantive competition rules (i.e., prohibit noncompetes), and seek a declaratory judgment and injunctive relief to prevent the Final Rule from taking effect 120 days after its publication in the Federal Register, September 4th.

IN THE NEWS - Texas Judge Suspends DOL's Ability to Enforce New FLSA's White-Collar Exemption

As of July 1, 2024, the U.S. Department of Labor (DOL) instituted a significant change affecting the Fair Labor Standards Act's (FLSA) white-collar exemption. The new rule increases the minimum salary threshold for employees to qualify for the white-collar exemption from overtime pay requirements.

Under the FLSA, the white-collar exemption applies to certain executive, administrative, and professional employees who meet specific criteria, including being salaried and earning above a set threshold. Prior to the DOL's rule, the



threshold was \$35,568 annually. Employees who met these criteria were exempt from overtime pay, meaning they did not receive time-and-a-half for hours worked beyond 40 per week.

Key Changes Under the New Rule

The DOL's final rule raised the minimum salary threshold to \$43,888 as of July 1. Starting Jan. 1, 2025, this threshold will increase to \$58,656, with subsequent updates every three years. This change expands overtime eligibility to millions of additional workers.

Legal and Practical Implications

The new rule has generated mixed reactions. Proponents argue that it ensures fair pay for overtime work. Critics, including many business groups and the state of Texas, contend that the increased threshold will significantly raise payroll costs and lead to job cuts.

To address these concerns, the state of Texas filed for a preliminary injunction against the rule, arguing that it would cause irreparable harm by increasing state payroll expenses and straining budgets. On June 28, 2024, a federal judge in Texas granted a preliminary injunction, halting the rule's implementation and enforcement against the state of Texas as an employer. Private sector employers and other states remain subject to the new rule.

Addressing Compliance

For employers, the immediate priority is to assess the new salary threshold's effects on their workforce. To comply, companies must identify employees who will become newly eligible for overtime pay and adjust payroll practices accordingly. Additionally, employers should be prepared for the threshold adjustments scheduled for January 2025 and beyond. Access the original July 10th Barnes & Thornburg, LLP article [HERE](#)

ETC will continue to monitor the situation. In the interim, employers are best positioned adhering to the federally enacted changes.

EEOC Announces "Failure to File" Deadline for 2023 EEO-1 Reports - July 9

The U.S. Equal Employment Opportunity Commission (EEOC) [announced](#) that it had entered the "Failure to File" phase for EEO-1 reporting, as described in the agency's recently updated [EEO-1 Reporting Instruction Booklet](#). The EEOC offers a [fact sheet](#) regarding the failure to file deadline.

This announcement means that if an employer failed to submit a required EEO-1 Report by the "Published Due Date" of June 4, 2024, the EEOC will send it a Notice of Failure to File letter requesting that it complete the submission as soon as possible but no later than **July 9, 2024**.

After this date, which is deemed the **"Failure to File" deadline**, no additional 2023 EEO-1 Component 1 Reports will be accepted, and employers that remain out of compliance with EEO-1 reporting requirements may expect to face EEOC lawsuits in federal District Court to compel them to file. In fact, the EEOC recently filed lawsuits against 15 employers for failing to submit their mandatory workforce demographic reports.

Reminder: Who is a Covered Employers?

The following entities are subject to EEO-1 reporting:

- A **private employer** that has **100 or more employees** (with limited exceptions for schools and other organizations);
- A **private employer** with **between 15 and 99 employees** if it is part of a group of employers that legally constitutes a single enterprise that employs a total of 100 or more employees; and
- A **federal contractor** that has **50 or more employees**; is either a prime contractor or first-tier subcontractor; and has a contract, subcontract or purchase order amounting to **\$50,000** or more.

Federal: DOL Increases Exempt Employee Minimum Salaries - July 1



On April 26, 2024, the U.S. Department of Labor (DOL) published the much-anticipated final rule that will increase the minimum salary for many exempt employees. The increase will take effect in two steps. If you'd like to review the regulations yourself, they are available [here](#)—the relevant changes start on page 130 of the downloadable PDF.

Executive, Administrative, and Professional Employees

Under the new rule, exempt *executive*, *administrative*, and *professional* employees (often referred to collectively as “EAP” employees) must be paid at least:

- **\$844 per week** (\$43,888 per year) beginning on **July 1, 2024**
- **\$1,128 per week** (\$58,656 per year) beginning on **January 1, 2025**

Exceptions

Teachers and practicing doctors and lawyers are exempt from these minimum salary requirements under federal law but may be subject to different state minimums. School-specific minimums apply to academic administrative employees.

Computer Employees

Exempt computer employees can be paid on a salary *or* hourly basis. If salaried, they're considered part of the EAP group and need to make the minimums listed above. Alternatively, they can be paid at least \$27.63 per hour—this hourly rate was not changed by the rule.

Highly Compensated Employees (HCE)

Employees who are exempt under the HCE exemption must be paid at least the minimums listed above on a salary basis *and* receive total annual compensation of at least:

- **\$132,964 per year** beginning **July 1, 2024**
- **\$151,164 per year** beginning **January 1, 2025**

State Law

As usual, if a state law requires higher minimum salaries than what is required by the federal rule, the state minimums must be followed.

Potential Challenges

The last time the DOL attempted a significant change to the salary minimums, the rule was challenged and ultimately blocked just weeks before taking effect. While we have no way of predicting if that will happen again, it's very likely that this final rule will be litigated.

HHS Updates HIPAA FAQs Regarding Change Healthcare Cybersecurity Incident

On May 31, 2024, the U.S. Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) updated its [frequently asked questions \(FAQs\)](#) regarding HIPAA and the recent cybersecurity incident involving Change Healthcare, a unit of UnitedHealth Group. OCR enforces the HIPAA [Privacy](#), [Security](#) and [Breach Notification](#) Rules (HIPAA Rules), which require covered entities and their business associates to protect the privacy and security of protected health information (PHI) and notify HHS and affected individuals following a breach.

FAQ Updates

The updates to the FAQs address the **responsibility for providing breach notification to HHS, affected individuals and, where applicable, the media**. Specifically, the FAQs provide that:

- Covered entities affected by the Change Healthcare breach may delegate to Change Healthcare the task of providing the required breach notifications on their behalf;
- Only one entity (which could be the covered entity or Change Healthcare) needs to provide breach notifications; and
- If covered entities ensure that Change Healthcare provides the required breach notifications in a manner consistent with the HIPAA Rules, they will not have additional HIPAA breach notification obligations.



Employer Takeaway: In connection with the Change Healthcare cybersecurity incident, OCR has encouraged HIPAA-covered entities (e.g., health plans, health insurance issuers and healthcare providers) and their business associates to **review their cybersecurity measures “with urgency”** to ensure that health information is protected.

While many employers do not have access to PHI from their health plans, employers that use third-party vendors, such as third-party administrators (TPAs) and pharmacy benefit managers (PBMs), should investigate and verify these vendors’ cybersecurity measures during the selection process. Employers should also ensure they have business associate agreements in place that include adequate security protections for electronic PHI.

Compliance Resources

Safeguarding PHI is a top priority for OCR. To help covered entities and business associates protect their systems from cyberattacks, OCR has provided a variety of resources, including:

- [HIPAA Security Rule Guidance Material](#)
- [OCR Webinar on HIPAA Security Rule Risk Analysis Requirement](#)
- [HIPAA Security Risk Assessment Tool](#)
- [Fact Sheet: Ransomware and HIPAA](#)

OFCCP Releases New Vietnam Era Veterans' Readjustment Assistance Act Resources

The U.S Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) enforces the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended (VEVRAA). Under VEVRAA, federal contractors and subcontractors are prohibited from engaging in discrimination in employment practices against veterans and required to provide equal employment opportunity in recruiting, hiring, promoting, and retaining protected veterans.

OFCCP continues to release new resources to help contractors understand their obligations under VEVRAA. Published on June 14th is a [new example](#) illustrating the use of the VEVRAA national benchmark, which is a yardstick contractors use to measure their progress toward achieving equal employment opportunity for protected veterans. OFCCP also published an updated [VEVRAA Affirmative Action Program \(AAP\) sample](#). The update includes additional information for contractors on how to use the hiring benchmark effectively to monitor their veteran hiring and recruitment efforts.

Corporate Transparency Act

The [Corporate Transparency Act](#) (CTA), which became effective **Jan. 1, 2024**, requires certain business entities, or CTA “reporting companies,” to report their beneficial ownership information (BOI) and certain related information to the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN).

The CTA aims to combat illicit financial activity, including money laundering, the financing of terrorism, tax fraud and drug trafficking, by creating a centralized database of information about the individuals who ultimately own or control certain businesses that do business in the United States. The CTA generally targets small, privately held businesses and exempts many organizations from its requirements, including large employers and publicly held companies.

The reporting requirements may be unfamiliar to many small businesses that have not been subject to similar requirements in the past. Therefore, businesses that are considered reporting companies under the CTA should familiarize themselves with their reporting obligations and take steps now to ensure that they will be in compliance by their initial reporting deadline.

Starting January 1, 2025 reporting companies created or registered to do business in the United States before Jan. 1, 2024, must file their initial BOI reports.

Employer Take away: Tough outside of the scope of consulting by ETC HR, businesses should carefully review the CTA to determine whether they are subject to its reporting requirements or qualify for one of the 23 listed exemptions. Businesses that meet the definition of reporting companies under the law may begin gathering all the necessary information, including information regarding the company and its beneficial owners, to ensure that they are prepared to comply with the CTA before their initial reporting deadline. As FinCEN began accepting reports on Jan. 1, 2024, reporting companies may submit finalized reports at any time prior to such deadline. See also attached resource.



Resources:

- FinCEN – [BOI Homepage](#)
- FinCEN – [BOI Informational Brochure](#)
- FinCEN – [BOI Frequently Asked Questions](#)
- FinCEN – [BOI Small Entity Compliance Guide](#)

EEOC's Workplace Guidance to Prevent Harassment

On April 29, 2024, the U.S. Equal Employment Opportunity Commission (EEOC) published its final guidance on harassment in the workplace, which went into effect immediately upon issuance. This is the first updated enforcement guidance on workplace harassment in 25 years and it explains how the EEOC may enforce equal employment opportunity (EEO) laws against an employer when workplace harassment is alleged or suspected.

Since the Commission last issued guidance on workplace harassment, notable changes in the law have occurred, including the Supreme Court's decision in *Bostock v. Clayton County* and new issues such as online harassment. The new guidance updates, consolidates, and replaces the agency's five guidance documents issued between 1987 and 1999, and serves as a single, unified agency resource on EEOC-enforced workplace harassment law. It reflects the Commission's consideration of the robust public input that it received after the guidance was posted for public comment in fall 2023.

Resources:

- [Enforcement Guidance on Harassment in the Workplace.](#)
- ["Summary of Key Provisions" document.](#)
- [document for employees, and a](#)
- [fact sheet for small businesses.](#)

Learn more:

Covered Bases and Causation

The first section of the guidance examines the covered bases for a claim of workplace harassment and the factors to be considered in determining whether particular conduct rises to the level of actionable workplace harassment. It also examines the characteristics protected by federal EEO laws and provides insight into the scope of protection provided for these characteristics.

Among the highlights in the new guidance:

- Race harassment includes harassment based on *traits or characteristics linked to a person's race*, such as a person's name, cultural dress and accent or speech pattern. Protection based on race extends to a person's physical characteristics, including their appearance standards, hair texture, and hair style.
- *National origin* harassment includes harassment *based on traits* such as "physical characteristics, ancestry, or ethnic or cultural characteristics (e.g., attire or diet), and linguistic characteristics (e.g., non-English language accent or a lack of fluency in English)."
- The prohibition on religious harassment extends to *religious stereotypes and requests for or receipt of religious accommodations in the workplace*. Atheists and those without any religious beliefs are also protected from religious harassment. Religious harassment also includes explicit or implicit coercion by employees to have their coworkers engage in religious practices at work.
- Title VII of the Civil Rights Act's prohibition on sex-based harassment also includes harassment based on *pregnancy, childbirth, and related medical conditions such as lactation, morning sickness, use or non-use of contraception, and decisions related to abortions*.
- Sex-based harassment under Title VII includes conduct based on an individual's sexual orientation or gender identity, including how that identity is expressed. This includes "outing" a person's sexual orientation or gender identity, repeated or intentional misgendering (using a pronoun inconsistent with a person's gender identity) and "dead naming" (using a name used by a person prior to their transition), and denying a person access to a bathroom or other sex-segregated facility consistent with the person's gender identity. Sexual orientation or gender identity harassment also includes conduct directed toward

a person because the person presents themselves in a manner that is different from that which would be stereotypically associated with that person's sex.

- Harassment prohibited by the *Age Discrimination in Employment Act* includes encouraging an older employee to retire or pressuring an older employee to accept a transfer to a position that uses less technology based on a stereotype that older workers are technologically illiterate.
- *Disability harassment* under Title I of the Americans With Disabilities Act includes conduct based on the person's *disability-related traits or characteristics* such as how the person speaks, looks, or moves. Harassment based on an individual's request for or receipt of an accommodation for their disability, the incorrect perception that a person has a disability, a person's past disability, or a person's association with a disabled person is also prohibited.
- The *prohibition on retaliation* under EEO statutes extends to what the guidance describes as "*retaliatory harassment*," or *harassment suffered by the employee due to their protected activity*. Under the guidance, the threshold for establishing retaliatory harassment is different than the standard for establishing a hostile work environment. The guidance noted that an employer can be found liable for retaliatory harassment that is *not sufficiently severe or pervasive to support a hostile work environment claim* because the Supreme Court has held the EEO statutes' anti-retaliation provisions protect against a broader range of behaviors by prohibiting any conduct that might deter a reasonable person from engaging in protected activity.
- The guidance provides that an individual can be found to have engaged in prohibited harassment against another individual *even if both are in the same protected class*, referred to as *intraclass harassment*.
- Harassment can also be based on more than one protected characteristic or be actionable under more than one EEO statute, which is referred to as *intersectional harassment*.

DOL Issues Guidance on AI

The Wage and Hour Division (WHD) of the U.S. Department of Labor recently published a [Field Assistance Bulletin \(FAB\) No. 2024-1](#) warning that the use of artificial intelligence (AI) and other automated systems could cause employers to violate laws WHD enforces, including Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), and other federal labor laws due to the use of AI and automation technologies.

Employer take-away: Employers need to be aware that there will be heightened attention on their use of AI from the DOL and other federal agencies. While these principles are not mandatory, employers can certainly expect that the DOL will likely find violations of the law where the principles are ignored.

Learn More:

When used responsibly, AI has the potential to help improve compliance with the law but without proper human supervision, however, technologies can pose potential risks with respect to labor standards and may result in violations of the laws enforced by WHD. There exists the potential for use of AI in the workplace to pose a risk of creating systemic violations. Employers should proceed with the responsible use of AI.

So, what's in the DOL's released Principles?

- **Centering Worker Empowerment:** Workers and their representatives, especially those from underserved communities, should be informed of and have genuine input in the design, development, testing, training, use, and oversight of AI systems for use in the workplace.
- **Ethically Developing AI:** AI systems should be designed, developed, and trained in a way that protects workers.
- **Establishing AI Governance and Human Oversight:** Organizations should have clear governance systems, procedures, human oversight, and evaluation processes for AI systems for use in the workplace.
- **Ensuring Transparency in AI Use:** Employers should be transparent with workers and job seekers about the AI systems that are being used in the workplace.
- **Protecting Labor and Employment Rights:** AI systems should not violate or undermine workers' right to organize, health and safety rights, wage and hour rights, and anti-discrimination and anti-retaliation protections.



- **Using AI to Enable Workers:** AI systems should assist, complement, and enable workers, and improve job quality.
- **Supporting Workers Impacted by AI:** Employers should support or upskill workers during job transitions related to AI.
- **Ensuring Responsible Use of Worker Data:** Workers' data collected, used, or created by AI systems should be limited in scope and location, used only to support legitimate business aims, and protected and handled responsibly.

The Whitehouse Publishes Critical Steps to Protect Workers from Risks of Artificial Intelligence

Last year the White House weighed in on the use of [artificial intelligence \(AI\) in businesses](#).

Since the executive order, several government entities including the Department of Labor have released guidance on the use of AI.

And now the [White House published principles](#) to protect workers when AI is used in the workplace.

The principles apply to both the development and deployment of AI systems. These principles include:

- **Awareness** – Workers should be informed of and have input in the design, development, testing, training, and use of AI systems in the workplace.
- **Ethical development** – AI systems should be designed, developed, and trained in a way to protect workers.
- **Governance and Oversight** – Organizations should have clear governance systems and oversight for AI systems.
- **Transparency** – Employers should be transparent with workers and job seekers about AI systems being used.
- **Compliance with existing workplace laws** – AI systems should not violate or undermine worker's rights including the right to organize, health and safety rights, and other worker protections.
- **Enabling** – AI systems should assist and improve worker's job quality.
- **Supportive during transition** – Employers support workers during job transitions related to AI.
- **Privacy and Security of Data** – Worker's data collected, used, or created by AI systems should be limited in scope and used to support legitimate business aims.

2025 Inflation-Adjusted HSAs & HDHPs Amounts + ACA Out-of-Pocket Limits

On May 9, 2024, the IRS released [Rev. Proc. 2024-25](#), announcing the 2025 health savings accounts (HSAs) and high deductible health plans (HDHPs) inflation-adjusted amounts:

- Annual HSA contribution limits:
 - Self-coverage only: \$4,300 (\$150 increase from 2024)
 - Family coverage: \$8,550 (\$250 increase from 2024)
- Annual catch-up contribution maximum remains unchanged at \$1,000 for HSA-eligible individuals age 55 or older
- Minimum annual HDHP deductible:
 - Self-coverage only: \$1,650 (\$50 increase from 2024)
 - Family coverage: \$3,300 (\$100 increase from 2024)
- Maximum annual HDHP out-of-pocket expenses (deductibles, copayments, and other nonpremium amounts):
 - Self-coverage only: \$8,300 (\$250 increase from 2024)
 - Family coverage: \$16,600 (\$500 increase from 2024)

This applies to all HDHPs regardless of whether they're for essential health benefits or not.

These amounts differ from the Affordable Care Act (ACA) maximum [out-of-pocket limits](#) for plan years beginning in 2025 (proposed by the Department of Health and Human Services in November 2024) for non-grandfathered health plans, which are:

- Self-coverage only: \$9,200 (\$250 decrease from 2024)
- Family coverage: \$18,400 (\$500 decrease from 2024)



Unlike the HDHP out-of-pocket maximums, the ACA out-of-pocket maximums apply to in-network essential health benefits.

2023 RxDC Reporting Due to CMS by June 1, 2024 – ALL EMPLOYERS Offering Pharmacy Benefits as Part of their Health/Group Medical Benefit

The Consolidated Appropriations Act of 2021 (Transparency) requires all group health plans with pharmacy coverage to submit annually data and financials around their Rx programs either embedded in their medical or carved out separately. The 2023 reference year (calendar year) RxDC data report is due by **June 3, 2024**.

Although most fully-insured plan carriers have taken on this responsibility on behalf of employers, carriers/TPAs/PBMs will still need to collect a couple of financial details from the Employer that includes:

- Average Member Monthly Premium Paid by MEMBER
- Average Monthly Premiums Paid by EMPLOYER

The Centers for Medicare and Medicaid Services (CMS) published the [2023 reference year instructions](#). The key updates include:

1. Exclusion of certain products: Clarification that medical devices, nutritional supplements, and over-the-counter drugs are to be excluded from the prescription drug lists (sections D3, D4, D5, D7, and D8) unless the product's National Drug Code (NDC) is listed on the CMS Drug and Therapeutic Class Crosswalk.
2. Simplification of premium calculation: The method for calculating the average monthly premium has been simplified. Instead of calculating this on a per-member basis, the total annual premium is now divided by 12.
3. Modification of premium equivalents calculation: The calculation for premium equivalents has been simplified by removing the requirement to report on a cash basis and using paid claims rather than incurred claims.
4. Updates to benefit carve-out field: Instructions for filling out the benefit carve-out field in section P2 have been updated.
5. Clarification on reporting prior year and restated rebates: Additional details have been provided on how to report information in the prior year columns in section D5 and the restated rebate columns in sections D6, D7, and D8.
6. Guidance on retained rebates reporting: New instructions have been provided for reporting entities on how to report information on retained rebates when exact amounts are unknown.
7. Submission of large data files: Instructions on how to submit data when plan list or data files exceed the maximum allowable size limit in the Health Insurance Oversight System (HIOS) have been included.
8. Enforcement of aggregation restriction: The enforcement of the aggregation restriction has been announced, which pertains to how data are aggregated for reporting purposes.
9. Addition of enrollment column to D6: A new column to collect enrollment data has been added to section D6.

Read more on the CMS [Prescription Drug Data Collection \(RxDC\)](#) web page

Because these calculations are based on actual costs (not projected), the information will need to be collected from your accounting and/or payroll records. For self and level funded plan reporting obligations vary among health insurance carriers. Be on the lookout for more details from your Carrier and Broker regarding RxDC employer obligations. ETC can also provide guidance and assistance; please reach out with questions today!

The 2023 EEO-1 Component 1 Data Collection June 4th Reporting Deadline

Yes, you read that correctly!

The **2023** EEO-1 Component 1 data collection will open on **Tuesday, April 30, 2024**.

The deadline to file the 2023 EEO-1 Component 1 report is **Tuesday, June 4, 2024**.

All updates about the 2023 EEO-1 Component 1 data collection, including the 2023 EEO-1 Component 1 Instruction Booklet and the 2023 EEO-1 Component 1 Data File Upload Specifications, will be posted to www.eeocdata.org/eo1 as they become available. The EEOC anticipates posting the 2023 EEO-1 Component 1 Instruction Booklet and the 2023 Data File Upload Specifications by Tuesday, March 19, 2024.

The EEO-1 Component 1 report is a mandatory annual data collection that requires all private sector employers with 100 or more employees, and federal contractors with 50 or more employees meeting certain criteria, to submit workforce demographic data, including data by job category and sex and race or ethnicity, to the EEOC. The authorities under which EEO-1 Component 1 data are collected include: Section 709(c) of Title VII of the Civil Rights Act of 1964,



as amended, 42 U.S.C. 2000e, et seq., and Sections 1602.7-1602.14, Chapter XIV, Title 29 of the Code of Federal Regulations (CFR); Exec. Order No. 11246, 30 FR 12319 (Sept. 24, 1965) and 40 CFR 60-1.7(a).

OSHA Form 300A Deadline

Posted by February 1 & Electronically Submitted March 2, if applicable

ETC published on January 17th an e-Alert compliance reminder pertaining to OSHA Form 300A. Be sure you are aware of the applicability of any OSHA recordkeeping and filings to your organization.

OFCCP Affirmative Action Plan Submission Due July 1

On April 1st the Office of Federal Contract Compliance Programs (OFCCP) will open the [Contractor Portal](#) for the 2024 Affirmative Action Program (AAP) certification period: **April 1 – July 1, 2024**.

Employer Takeaway: Covered federal contractors are urged to begin certifying their AAP compliance through the portal today to meet the July 1, 2024, deadline. If you are in need out outsourced assistance with this compliance obligation, reach out to ETC HR today @HR_Help so that we can facilitate an introduction!

Learn More: Covered federal contractors and subcontractors must use the portal to certify, on an annual basis, whether they have developed and maintained an AAP for each establishment and/or functional/business unit, as applicable. New contractors have 120 days to develop their AAP(s) and must register and certify compliance through the Contractor Portal within 90 days of developing their AAP(s).

Visit OFCCP's [Contractor Portal information page](#) before starting the certification process to access Frequently Asked Questions and step-by-step How-To videos, along with User Guides and other pertinent information.

Contractors can refer to the pre-recorded webinar on the [Contractor Portal information page that](#) demonstrates how a contractor can enter its establishment and/or functional/business unit's AAP start date and certify compliance through the Contractor Portal.

Please submit your Contractor Portal questions to the Applications Technical help desk using the [OFCCP Applications Technical Help Request Form](#) or call the OFCCP help desk at 1-800-397-6251, press 1 for English or 2 for Spanish, then press 1 to reach technical support for assistance.

- Instructions for registering and certifying for the Contractor Portal
 - [How-to Videos](#)
 - [User Guide](#)
- [Frequently Asked Questions](#)

ACA Reporting Deadlines

Employers subject to Affordable Care Act (ACA) reporting under Internal Revenue Code Sections 6055 or 6056. For the 2023 calendar year, covered employers must:

- Furnish statements to individuals by **March 1, 2024** (an alternative method of furnishing statements to covered individuals is available in certain situations); and
- File paper returns with the IRS by **Feb. 28, 2024**, or **April 1, 2024**, if filing electronically.
- ***Beginning in 2024, employers that file **at least 10 returns** during the calendar year must file electronically.

Penalties may apply if employers are subject to ACA reporting and fail to file returns and furnish statements by the applicable deadlines.

IRS Releases ACA Pay-or-Play Penalties for 2025

On Feb. 12, 2024, the IRS [released](#) updated penalty amounts for 2025 related to the employer shared responsibility (pay-or-play) rules under the Affordable Care Act (ACA). The 2025 penalty amounts apply for failures to offer affordable, MV coverage during the 2025 calendar year.

For calendar year 2025, the adjusted \$2,000 penalty amount is **\$2,900**, and the adjusted \$3,000 penalty amount is **\$4,350**. This is a decrease from the penalty amounts for the 2024 calendar year, which are \$2,970 and \$4,460, respectively.

The IRS provides a variety of resources on the pay-or-play provisions that provide more information on calculating the penalty. Employers can use the following IRS web pages for more details:



- [Employer Shared Responsibility Provisions](#)
- [Types of Employer Payments and How They Are Calculated](#)

EEO-1 Reporting & Revised Racial and Ethnic Categories

The federal government has revised the racial and ethnic categories that apply to data collection efforts across federal agencies, including the EEO-1 survey administered by the Equal Employment Opportunity Commission (EEOC) and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP).

The changes:

- Add Middle Eastern or North African (MENA) as a racial and ethnic category.
- Eliminate the distinction between race and ethnicity.
- Replace the "two or more races" category with an option to select all categories that apply, including detailed sub-categories.

Although the new demographic categories took effect immediately, federal agencies with demographic reporting requirements, including the EEOC and OFCCP, have 5 years to implement the new standards. Agencies must publish an "action plan" within the next 18 months describing how they intend to comply by the deadline of March 28, 2029.

Employer Takeaway:

Although employers may want to update their voluntary self-disclosure forms immediately to align with the new categories and new detailed sub-categories, doing so too soon may be imprudent. The EEOC and OFCCP likely will use the old EEO-1 categories for at least another reporting year, if not longer. Thus, any changes to an employer's data collection categories should be done in a manner that allows employers to continue reporting under the existing EEO-1 framework, in addition to collecting the new information.

U.S. Supreme Court: Mandatory Job Transfer Can Be Discriminatory Under Title VII

On April 17, 2024, the Supreme Court held through a unanimous decision in *Muldrow v. City of St. Louis* that a mandatory job transfer can be discriminatory under Title VII if it results in some harm with respect to a term or condition of employment even if the harm is not significant.

Key Takeaway: The Court's decision in *Muldrow v. St. Louis* requires plaintiffs only to prove "some injury" respecting employment terms or conditions in discrimination cases.

Learn More:

Supreme Court Ruling

The Supreme Court vacated the lower court's ruling and remanded it back to the lower courts, holding that a forced job transfer can be discriminatory if the transfer brought about some harm with respect to an identifiable term or condition of employment but that **harm need not be significant**. Here, the Supreme Court held that a change in the plaintiff's responsibilities, perks and schedule may constitute sufficient harm to show illegal discrimination under Title VII. The Supreme Court also ordered circuit courts that previously required a showing of significant harm to apply this lower evidentiary standard.

Impact on Employers

Employers may consider greater care in mandating employee transfers, including lateral job transfers, to ensure that such decisions are not discriminatory and do not result in even insignificant harm with respect to identifiable terms and conditions of employment. For example, employers could revise existing transfer policies to ensure any decisions are based on objective, nondiscriminatory criteria and that such criteria are appropriately documented.

Background of the Case

Title VII makes it unlawful for an employer “to fail or refuse to hire or to discharge any individual, or otherwise discriminate against any individual” with respect to “compensation, terms, conditions or privileges of employment” on the basis of race, color, religion, sex or national origin (referred to as protected characteristics). Historically, the circuit courts have disagreed on whether a forced job transfer may be unlawful discrimination even if the transfer does not significantly disadvantage the employee (e.g., does not result in lower compensation or a loss of professional opportunities).

In *Muldrow*, the plaintiff was a female St. Louis Police Department officer. After working for years in the same position, she was forced to transfer to a different division where she retained the same compensation and title but experienced changes to her responsibilities, perks and schedule. Following her transfer, her employer placed a male officer in her prior position. Although her transfer did not result in any change to her pay or rank, the plaintiff alleged that she was subject to a discriminatory job transfer because of her gender. The lower courts held in favor of the defendant, stating that the transfer did not violate Title VII because the plaintiff did not suffer a material employment disadvantage.

IRS Addresses Tax Treatment of Work-life Referral Services

The IRS has issued [frequently asked questions](#) (FAQs) addressing the tax treatment of work-life referral (WLR) services employers provide through their benefits offerings to their employees. These FAQs provide that WLR services **qualify** as a de minimis fringe benefit for tax purposes and **are thus excluded from income and exempt from employment taxes**.

Because the FAQs are not official IRS guidance, the IRS cannot rely on them to resolve a specific taxpayer’s case, and established tax laws control a taxpayer’s liability if the FAQs are inconsistent with such laws. However, the FAQs provide helpful insight into the IRS’ view on the tax treatment of WLR services.

WLR Services

A WLR program is an employer-funded fringe benefit that helps employees locate resources for solutions to personal, work or family challenges through informational and referral consultations. For example, WLR programs may provide employees with support, information or referrals in connection with identifying health care or child care, using paid leave programs, navigating the health care system, and connecting with financial planning professionals.

WLR programs are often incorporated into an employee assistance program or may otherwise be bundled with other types of services or programs offered by an employer. WLR programs may be available to a significant portion of an employer’s employees, but they are used infrequently by employees and only when an employee faces one of the challenges the programs are designed to address. WLR programs often rely on third-party providers that charge the employer a per-eligible-employee monthly fee, regardless of how many employees actually utilize the WLR services.

Tax Treatment

Federal tax law provides that all employee compensation is taxable unless a specific exemption applies. When compensation is taxable, it must be included in gross income on the employee’s Form W-2 and is subject to federal employment taxes.

De minimis (or minimal) benefits are one type of nontaxable employee fringe benefit. A de minimis fringe benefit is one that, considering its value and the frequency in which it is provided, is so small that accounting for it would be unreasonable or administratively impracticable. The law does not specify a specific value or frequency threshold for benefits to qualify as de minimis. The determination will depend on facts and circumstances.

The IRS’ FAQs provide that the use of employer-provided WLR services qualifies as a de minimis fringe benefit that is excluded from an employee’s gross income and is not subject to employment taxes (such as FICA, FUTA and income tax withholding).

Employers are encouraged to seek answers to any related questions from their tax advisors.

Pregnant Workers Fairness Act – Final Regulations Published



The [final rule](#) implementing the Pregnant Workers Fairness Act (PWFA), which applies to employers with 15 or more employees, takes effect June 18, 2024. THE PWFA regulations initially went into effect back in June 27, 2023, requiring employers to provide “reasonable accommodations” or changes at work for a worker’s known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship.

Employer Take Aways: Failure to comply with the PWFA may result in substantial penalties, including injunctive relief (e.g., reinstatement), back pay, compensatory damages, punitive damages, front pay, and attorneys’ fees and costs. Therefore, employers should familiarize themselves with the final rule and ensure they are in compliance with their obligations under the PWFA.

Make sure your policy addressing the PWFA accurately reflects the regulations. You should also educate your managers (and anyone else likely to receive a request) on the *presumptively reasonable* accommodations, the limitations on asking for supporting documentation, and the importance of prompt accommodation. If you don’t have high confidence in your managers’ abilities to respond appropriately, you may want to require that anyone who receives a request immediately communicate it to HR.

- EEOC [FAQs](#) - What You Should Know About the Pregnant Workers Fairness Act
- EEOC [Overview](#) - Pregnancy Discrimination and Pregnancy-Related Disability Discrimination
- EEOC [Summary](#) - Key Provisions of the EEOC’s Final Rule to Implement the Pregnant Workers Fairness Act

Learn More:

Below are some key takeaways to be aware of even if you expect to accommodate most requests:

Some Accommodations Are Presumptively Reasonable

The following accommodations for pregnant employees are presumed to be reasonable, meaning an employer will need an *exceptionally* good rationale for denying them based on undue hardship:

1. Allowing an employee to carry or keep water near and drink, as needed
2. Allowing an employee to take additional restroom breaks, as needed
3. Allowing an employee whose work requires standing to sit and whose work requires sitting to stand, as needed
4. Allowing an employee to take breaks to eat and drink, as needed

For instance, if a pregnant employee tells you they need more bathroom breaks or to sit on occasion, you should allow it. You’ll want to document the conversation so you have a record of saying yes, but there shouldn’t be a protracted back and forth with the employee about whether their request can be granted. If you believe any of these accommodations *do* create an undue hardship, we recommend speaking with an attorney before denying them.

Requests for Documentation Are Limited

Employers can only ask for documentation to support a request for accommodation when it’s *reasonable under the circumstances*. Blanket policies that automatically require documentation aren’t permitted.

In the following situations, seeking supporting documentation is considered unreasonable and *isn’t allowed*:

1. When the limitation and accommodation needed are obvious
2. When the employer already has sufficient information to determine that the employee has a limitation and needs an accommodation because of it
3. When a pregnant employee requests one of the presumptively reasonable accommodations listed in the section above
4. When the employee requests an accommodation related to pumping at work (or nursing, if feasible)
5. When the requested accommodation is available to employees with a non-PWFA limitation *without* providing documentation

When collecting documentation *is* permitted, employers can only request the minimum amount that confirms the employee’s condition, verifies that it’s related to pregnancy, childbirth, or a related condition, and describes the adjustment that the employee needs.



The Definitions Are Broad (and Might Surprise You)

Known limitations that must be accommodated can be modest, minor, or episodic and don't need to rise to the level of a disability—they also include medical care, meaning you need to allow time off for appointments. *Pregnancy and childbirth* include (among other things) infertility, fertility treatment, and the use of contraception. And *related medical conditions* (among *many* other things) include termination of pregnancy, including by miscarriage, stillbirth, or abortion.

Employers Can't Require "Magic Words" or Special Forms

An employee's request for accommodation can be made orally, in writing, or by any other effective means. Employers can't require that it be in a specific format or use specific language for them to acknowledge the request. Employers also can't require that supporting documentation be on a specific form.

Accommodations Should Be Provided Without Delay

Once an employee makes a request for accommodation, the employer should do their best to provide it (or an interim accommodation) as soon as possible, even if supporting documentation will ultimately be required. The EEOC made it clear that they will frown upon delays, particularly with respect to simple or presumptively reasonable accommodations.

Webcast: Reasonable Accommodation: A Deeper Dive into the Interactive Process under the ADA and Title VII

This webcast takes a deeper look at the workings of reasonable accommodation and the interactive process. Many employers are getting "tripped up" on this process by not vetting additional options leading to adverse verdicts under the ADA. It will also address the potential unintended consequences of being overly accommodating, as well as the growth of requests for religious accommodations. Access the March 21st recording, click [here](#)

CDC Issues New COVID-Related Guidance

For the first time since 2021, the Center for Disease Control and Prevention (CDC) issued new guidance relaxing the quarantine requirements for COVID-19. The new guidance is the result of fewer COVID-related deaths and hospitalizations in the United States. For the first time since 2021, the Center for Disease Control and Prevention (CDC) issued new guidance relaxing the quarantine requirements for COVID-19. The new guidance is the result of fewer COVID-related deaths and hospitalizations in the United States.

Employer Takeaway: Employer Handbook with COVID-19 Protocols or Policy should be updated to reflect any outdated Guidance or requirements still being referenced.

Employers Should Monitor Both Pro & Anti DEI Court Challenges & Legislation

Key Takeaways

- In the wake of the U.S. Supreme Court's 2023 decision on consideration of race in university admissions, litigants have begun to challenge some DEI training programs, alleging that they constitute racial discrimination and compelled speech, and/or cultivate a hostile work environment.
- State legislators on both sides of the aisle have passed bills and introduced others to either pare back or promote DEI initiatives.
- In light of the state regulations and intense public debates, DEI initiatives will likely continue to face challenges in court. Companies should look closely at their programming to ensure compliance with applicable and evolving laws and directives.

State Legislation Relating to DEI Initiatives

In addition to private court challenges to DEI trainings, several states have introduced or passed legislation that prohibits or restricts DEI offices and staff, mandatory DEI training, diversity statements and/or identity-based preferences for hiring and admissions. As of March 2024, nine of these bills have become law.

Most recently, on March 20, 2024, the governor of **Alabama** signed [Senate Bill \(SB\) 129](#) into law, a sweeping measure that prohibits state agencies and schools from sponsoring DEI programs or requiring their employees or students to participate in them. Meanwhile, **Utah's** governor signed into law [House Bill \(HB\) 261](#), which prohibits public



institutions from requiring DEI training or asking job applicants questions about initiatives that promote differential treatment based on personal identity characteristics. It also bans policies or programs with “diversity, equity, and inclusion” in their names.

Notably — and importantly, for private employers — while HB 261 passed quickly, a bill covering employers in the private sector, [HB 111](#), did not fare as well. The measure, which would have prohibited such employers from mandating DEI trainings, passed the Utah House but was voted down in the Utah Senate in February 2024.

Florida, North Carolina, North Dakota, Tennessee and Texas have also enacted anti-DEI bills.

- **Texas** adopted [SB 17](#), which bans DEI offices and faculty and staff diversity trainings at public institutions.
- **Tennessee** signed into law [HB 158](#), which prohibits certain public institutions from mandating implicit bias training.

At the same time, other states have moved to require DEI initiatives.

- **Washington** [SB 5462](#) would require school districts to adopt curricula that tell the perspectives of LGBTQ+ Washingtonians.
- And in **California**, [SB 54](#) requires venture capital companies to report the diversity of the founding members of businesses in which they invest.

Pay Transparency (Ohio, Minnesota & DC Updates)

Employer Takeaway:

Pay transparency laws are in effect in 9 states: California, Colorado, Connecticut, Hawaii, Maryland, Nevada, New York, Rhode Island, and Washington. The District of Columbia and Illinois pay transparency laws are scheduled to go into effect on June 30, 2024, and January 1, 2025, respectively. Additionally, at least 7 local jurisdictions have pay transparency laws in effect, and proposed legislation is pending in many other state and local jurisdictions. As employers, it is essential to proactively adapt to the upcoming pay transparency legislation to ensure compliance and foster a fair and inclusive work environment. Start by familiarizing yourself and your team with the specific provisions of these laws, including any requirements related to salary history inquiries, disclosure of salary ranges in job postings, and prohibitions on screening applicants based on wage history.

Learn More: In the pursuit of fair and equitable compensation practices, jurisdictions worldwide are implementing new laws to promote pay transparency and combat wage disparities. These legislative initiatives aim to address historical inequalities by prohibiting employers from inquiring about an applicant's salary history, disclosing salary ranges in job postings, and restricting the use of pay history in determining compensation. As we delve into the overview of three jurisdictions' upcoming pay transparency laws set to take effect in 2024, we'll examine the specifics of these regulations and their implications for employers and job seekers alike.

Columbus, Ohio: Effective March 1, 2024, Columbus prohibits employers with 15 or more employees from inquiring about an applicant's salary history. [Ordinance 0709-2023](#) extends to screening applicants based on past compensation and making hiring decisions solely on salary history. Employers are also prohibited from searching publicly available records to obtain salary history. It does not apply to internal transfers or promotions or to applicants rehired within three years of separation.

While employers can discuss salary expectations with applicants, as well as other monetary incentives the applicant would forfeit by resigning from their current employment, they are not required to share pay scales. Exceptions include federal, state, or local law mandates, voluntary disclosures by applicants, and internal transfers or promotions. Violating employers may face civil fines of up to \$5,000.

Minnesota: Since January 1, 2024, Minnesota prohibits all employers, regardless of size, from inquiring into an applicant's pay history unless it is publicly available or voluntarily disclosed by the applicant. Employers may discuss salary expectations with applicants but cannot prompt pay history disclosure. Employers must offer salaries based on the current job market taking into consideration the applicant or employee qualifications, and not their former salary. [The Wage Disclosure Protection law](#) exempts certain federal, state, or local law provisions and voluntary disclosures by applicants.

Washington, D.C.: Scheduled for enactment on June 30, 2024, Washington, D.C.'s new [Pay Scale and Benefits Disclosure Amendment Act of 2023](#), also known as the Wage Transparency Omnibus Amendment of 2023, mandates private employers, regardless of size, to disclose minimum and maximum salary ranges in internal and external job



postings and advertisements. Screening job applicants based on wage history is forbidden. Employers must also disclose other benefits before the first interview and post notices informing employees of their rights. Violations may result in civil fines ranging from \$1,000 to \$20,000 per occurrence, with the attorney general empowered to investigate and seek remedies.

NLRB Blocked from Implementing Expansive Joint Employer Rule in Advance of the March 11th Effective Date

A federal district court recently vacated the National Labor Relations Board's 2023 joint employer rule (2023 Rule), which would have expanded the standard to hold separate companies joint employers based on indirect or reserved control, even if never actually exercised.

The district court's ruling preserves the National Labor Relations Board's (NLRB's or Board's) 2020 joint employer rule (2020 Rule), which requires "substantial direct and immediate control" to establish joint employer status.

The NLRB has several response options at this stage: (1) appeal the district court's ruling; (2) rescind the 2020 Rule, which will reinstate the pre-2020 joint employer standard, and then address future joint employer issues through case-by-case adjudication; or (3) issue a new and revised joint employer rule.

BACKGROUND

On March 8, 2024, the US District Court for the Eastern District of Texas vacated a 2023 rule issued by the NLRB, which would have [vastly expanded the circumstances under which separate companies can be considered joint employers.](#)^[1] Joint employer status can have significant legal consequences, including obligations to recognize a union, bargain with that union, and be bound by a collective bargaining agreement; joint liability for unfair labor practices; and legal vulnerability to union picketing during labor disputes.

The district court's ruling preserves the NLRB's 2020 Rule on the joint employer standard, which the 2023 Rule sought to rescind and replace. Under the 2020 Rule, a company is deemed a joint employer of another company's employees only if it actually exercises "substantial direct and immediate control" over the employees' essential terms and conditions of employment—for example, wages, benefits, hours of work, hiring, discharge, discipline, supervision, and direction.^[2]

The 2023 Rule, which would have gone into effect on March 11, 2024, deems virtually any company that contracts for third-party labor as a joint employer. The 2023 Rule provided that a company would be a joint employer if it exercised control over (whether directly, indirectly, or both), or had the right to control (whether directly, indirectly, or both), one or more of the employees' essential terms and conditions of employment—even if that control was only reserved and never actually exercised.^[3]

The 2023 Rule also broadens the definition of "essential terms and conditions of employment" to include "work rules and directions governing the manner, means, and methods of the performance of duties and the grounds for discipline," and "working conditions related to the safety and health of employees."^[4]

In its March 8 decision, the district court held the 2023 Rule contrary to the NLRB's authority because it exceeded the bounds of the common law definition of an employer.^[5] The court also found that the Board failed to provide a sufficient justification for rescinding the 2020 Rule.

'Substantial Direct and Immediate Control' is the Operative Standard – For Now

Given the district court's ruling, the 2020 Rule's "substantial direct and immediate control" standard is the operative NLRB joint employer standard—at least for the time being. The district court's ruling is the latest development in an area of law that has been in flux for much of the last decade. The Board is likely to take action in response to the district court's decision, which may include one or more of the following:

- **Appeal District Court's Ruling to the US Court of Appeals for the Fifth Circuit:** A successful appeal by the NLRB could result in reinstatement of the expansive standard set forth in the 2023 Rule. Alternatively, if only the 2023 Rule's rescission of the 2020 Rule were to be upheld, the joint employer standard would revert to the Board's prior precedent in *Browning-Ferris*, which established an approach similar to—although not quite as expansive as—the 2023 Rule.^[6] The Board may then choose to abandon rulemaking for the joint employer standard and establish future joint employer policy through case-by-case adjudication (see below).

- **Rescind 2020 Rule and Promulgate New Joint Employer Standard Through Adjudication:** The Board could engage in new rulemaking to rescind the 2020 Rule, which would require a lengthy notice and comment process. As noted above, a rescission of the 2020 Rule would restore the Board's prior precedent in *Browning-Ferris*,^[7] which established an approach similar to the 2023 Rule. The Board could then decide future joint employer issues through case-by-case adjudication, which is how the Board addressed joint employer issues prior to the 2020 Rule.^[8] The Board could adopt a new standard under this case adjudication approach that is very similar, if not identical, to the 2023 Rule without engaging in rulemaking.

Whatever approach or combination of approaches the Board ultimately decides to take, employers can expect that the current Board will continue to pursue an expansion of the joint employer standard because it creates additional leverage and impact for union organizing, collective bargaining, and labor law litigation. As a result, companies should continue to consider ways to structure their contractual relationships and draft contractual terms to minimize the risk of a joint employer finding to address potential application of a "reserved and indirect" control standard in the future. However, for the time being, the current Board's effort to adopt that standard is stalled. Original Morgan Lewis Lawflash dated March 27th. Access it [HERE](#)

DOL Issues Independent Contractor Final Rule

On January 9, 2024, the U.S. Department of Labor (DOL) released a [final rule](#), effective March 11, 2024, revising the agency's guidance on how to analyze who is an employee or independent contractor under the Fair Labor Standards Act (FLSA). This final rule rescinds the current independent contractor [rule](#) that was published on January 7, 2021, and mirrors the DOL's [proposed rule](#).

Employer Takeaways:

- DOL's final rule rescinds the 2021 Independent Contractor Rule.
- It restores the multifactor, totality-of-the-circumstances when determining whether a worker is an employee or independent contractor under the FLSA.
- It requires entities to analyze all 6 economic realities test factors without assigning a predetermined weight to a particular factor.
- It may result in classifying a greater number of workers as employees, not independent contractors.
- The DOL has released [guidance](#) to help employers comply with the final rule.

Learn More

Under the FLSA, employees are entitled to minimum wage, overtime pay and other benefits. Independent contractors are not entitled to these protections and benefits. According to the DOL, this final rule will reduce the risk of employees being misclassified as independent contractors while providing a consistent approach for businesses that engage with individuals who are in business for themselves.

The DOL published the 2021 Independent Contractor Rule on January 7, 2021. The 2021 rule reasserted the economic realities test (ERT) as the DOL's preferred method to determine whether a worker should be classified as an employee or independent contractor under the FLSA. In doing so, the 2021 rule focused on two core factors: the nature and degree of the worker's control over the work and the worker's opportunity for profit and loss based on initiative and/or investment. These factors carried more weight in determining the status of independent contractors.

The final rule rescinds the 2021 Independent Contractor Rule and returns to the pre-2021 rule precedent. In doing so, the final rule restores the multifactor, totality-of-the-circumstances analysis to assess whether a worker is an employee or an independent contractor under the FLSA. The final rule ensures that all ERT factors are analyzed equally without assigning a predetermined weight to a particular factor or set of factors. These six factors include the opportunity for profit or loss depending on managerial skill, investments by the worker and the potential employer, the degree of permanence of the work relationship, the nature and degree of control, the extent to which the work performed is an integral part of the potential employer's business, and the worker's skill and initiative.

NLRB's General Counsel Says Employers Cannot Bar Outside Employment

Employer Takeaway: If you have a policy strictly prohibiting all outside employment., it may be time to review and update that policy.



Learn More: The National Labor Relations Board (NLRB) is chipping away at employment agreements and other restrictive covenants one clause at a time. In a recent [memorandum](#), the General Counsel said she believes restricting employees from holding outside or secondary employment violates federal labor law, and she intends to urge the NLRB's Democratic-appointed-controlled Board to reach the same conclusion.

The General Counsel said she believes any rule or agreement interfering with an employee's right to moonlight or access other employment is unlawful. Because this provision prevented employees from being an "employee" of another entity, it could be read as prohibiting secondary employment and would be unlawful. The company's rule, she added, implicitly prohibits "salting" – that is, the tactic of union agents acquiring jobs in particular workplaces for the sole purpose of unionizing that business – in violation of the National Labor Relations Act.

Out of Work: Union Strike Activity Surged in 2023

Employer Takeaway: Given the rise in strike activity over the last two years, any employers who have expiring labor agreements coming up would be well-suited to dust off their contingency plans and start getting a game plan in place to address the numerous issues that may arise.

Learn More: Unions continued to dominate headlines in late 2023, with the Starbucks saga [continuing to unfold](#) and the United Auto Workers (UAW) – for the first time in its history – coordinating a [simultaneous strike](#) at the "Big Three" automakers in Detroit.

The UAW's historic strike against American auto manufacturers was not an outlier. According to a [recent article](#) in U.S. News & World Report, "It was called the 'summer of strikes' or 'hot strike summer' – only the movement continued into fall and winter, too. More than half a million workers staged nearly 400 strikes during the first 11 months of 2023, according to Cornell University's Labor Action Tracker."

What drove the increased strike activity? The article notes that many labor agreements were up for renewal in 2023, which is part of the equation. It further, explains, however, "Workers felt empowered by other highly visible and successful strikes (or threats to strike) and a tight labor market, emboldening them to ask for higher pay and other benefits..."

The confluence of more media attention, perceived labor wins after high-profile strikes (such as with the UAW at the Big Three) and the tight labor market all likely contributed to this uptick. It is also notable that this surge in strike activity comes on the heels of an increase [in 2022 as well](#).

A myriad labor law and other legal issues come into play for employers when workers decide to go on strike.

For example:

- If workers strike, they generally cannot be disciplined or terminated – but they may be able to be permanently replaced, depending on the nature of, and circumstances giving rise to, the strike
- In the event union-represented workers sabotage or leave a company's property, equipment, etc., in an unsafe state that results in damage, employers may be able to initiate litigation to recoup damages based on a recent change to labor law
- Unions and employees generally have a right to picket peacefully on public property outside and adjacent to an employer's property. Employers may not engage in surveillance – or even create the impression of surveillance – of lawful picketing activity. Companies often trip up, for instance, by setting up new video cameras to record picketing activity before any illegal conduct occurs.
- In some states, employees on strike get unemployment benefits in certain circumstances and in others they do not
- Most – but not all – benefit plans provide that employees on strike are not eligible for benefits and must elect COBRA, which typically is very costly, to continue coverage

Countless other legal issues come into play as well.

-National Law Review: Thursday, January 25, 2024, BARNES & THORNBURG LLP

HR WORK BREAK PODCAST: HR Work Break: Keeping Employees Engaged

Listen [HERE](#)



Recent research at [Gallup](#) shows that employee engagement continues to decline, in spite of many efforts to revitalize company culture: only 36% of the workforce was engaged in 2020, and it's dropped to a low 32% in 2022. Low levels of employee engagement have a negative effect on productivity, retention, wellbeing, and more. So, what can leaders do to keep their workforce engaged? Shannon Gabriel, Vice President of Leadership Solutions at TBM Consulting, shares her advice and best practices. HR Work Break Podcast Guest: Shannon Gabriel, Vice President of Leadership Solutions at TBM Consulting

FCRA Summary & Employer Obligation Changes

Employer Take-away: Employers utilizing credit reports to deny employment MUST ensure the 3rd Party conducting Background Investigations are adhering to this employer obligation.

On March 20, 2023, the Consumer Financial Protection Bureau (CFPB) issued a [final rule](#) which, among other things, updates their [Summary of Your Rights Under the Fair Credit Reporting Act](#) (FCRA) and replaces the 2018 version. The summary details the major rights guaranteed under the act. Employers that use a credit report to deny employment must provide the applicant with the name, address, and phone number of the agency that provided the credit report information. Although the final rule is effective April 19, 2023, but the mandatory compliance date is **March 20, 2024**.

IRS Limit Updates Annual Benefit Maximums for Health Flexible Spending Accounts & More

Employer Take-away: Ensure limits are updated and reflective in your Payroll System

Each year in the fall, the IRS announces new limits for several types of benefits that have maximums subject to annual indexing. You can find the full list of the latest released amounts for 2024 in [IRS Revenue Procedure 2023-34](#), but we've outlined the most common items employers ask us about.

Health Flexible Spending Account (HFSA): For plan years beginning in 2024, the maximum HFSA contribution limit is \$3,200. For HFSA's that include a carryover feature, the maximum carryover is \$640.

The **dependent care FSA** contribution maximum is not subject to annual indexing and remains \$5,000 (or \$2,500 each if the employee and spouse file separate income tax returns) for calendar year 2024.

The limits for **health savings accounts (HSAs) and high deductible health plans (HDHPs)** limits vary based on whether an individual has self-only or family coverage under an HDHP; the 2024 limits are as follows:

Annual HSA Contribution Limit	Self-only: \$4,150 Family: \$8,300 Catch-up: \$1,000 (age 55 or older)
Minimum Annual HDHP Deductible	Self-only: \$1,600 Family: \$3,200
Maximum HDHP Out of Pocket	Self-only: \$8,050 Family: \$16,100

DOL Proposed Rule - Raising Salary Threshold for Exempt Employees

The United States Department of Labor (DOL) announced recently that it is proposing a rule to raise the salary threshold required for an employee to be exempt from the Fair Labor Standards Act's overtime requirements. An overview of the key provisions of the proposed rule, together with some suggestions for how best to prepare for this rule, are set forth below.

- The proposed rule would raise the threshold to \$1,059 per week or about \$55,000 per year, from its current rate of \$684 per week or about \$35,568 per year, with automatic updates to this earning threshold every three years.
- The proposed rule would also increase the highly compensated employee total annual compensation requirement to \$143,988 per year from its current rate of \$107,432 per year, with automatic updates to this earning threshold every three years.
- The proposed rule does not change the duties tests required for an employee to be exempt; employers will still bear the burden of establishing that an employee is exempt by proving that the employee meets both the salary basis test and the duties test.

Once the proposed rule is officially published in the Federal Register, there will be a time for input and comments concerning the proposed changes before the DOL issues a final rule.



Proposed changes in the law often provide a special opportunity for revisiting a host of wage and hour considerations within the context of an employer's business model. ETC HR will continue to monitor and provide updates regarding the proposed changes become effective

IRS Announces 2024 Standard Mileage Rates Effective Jan 1, 2024

On Dec. 14, 2023, the IRS [announced](#) the 2024 optional standard mileage rates, which are used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

The 2024 standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 67 cents per mile driven for business use, up 1 ½ cents from the rate for 2023;
- 21 cents per mile driven for medical purposes or for moving purposes for qualified active duty members of the Armed Forces, down one cent from the rate for 2023; and
- 14 cents per mile driven in service of charitable organizations. The rate is set by statute and remains unchanged from 2023.

Under the Tax Cuts and Jobs Act, taxpayers **cannot** claim a miscellaneous itemized deduction for unreimbursed employee travel expenses. Taxpayers also **cannot** claim a deduction for moving expenses, unless they are members of the Armed Forces on active duty moving under orders to a permanent change of station.

Taxpayers always have the option of calculating the actual costs of using their vehicle rather than using the standard mileage rates.

Taxpayers can use the standard mileage rate, but they must opt to use it in the first year the car is available for business use. Then, in later years, they can choose either the standard mileage rate or actual expenses. Leased vehicles must use the standard mileage rate method for the entire lease period (including renewals) if the standard mileage rate is chosen.

DOL Exchange Notice Updated

The Affordable Care Act (ACA) requires employers to notify all workers, regardless of their benefits eligibility status, about the availability of the Health Insurance Marketplaces. All employers, with limited exceptions, are required to distribute the notice to new employees within 14 days of hire. The Department of Labor (DOL) provides customizable model notices to inform workers of their health insurance coverage options. Updated model notices for employers that offer a health plan and that do not offer a health plan are available on the DOL [website](#) in English and Spanish. The model notices have an expiration date of December 31, 2026. The previous versions expired on July 31, 2023, August 31, 2023, September 30, 2023, October 31, 2023, and November 30, 2023.



Noteworthy State/City Compliance

New Regulatory Announcements & Reminders

Alabama

Minimum Wage Increases – July 1

Effective June 1, 2024, Alabama will no longer require minors to provide an Eligibility to Work Form for employment. The amended law can be found here: [AL S 53](#).

AL Employer Reporting Obligations Coming in January 2024

The new state tax law places mandatory reporting requirements on Alabama employers. Employers are required to report for the tax year beginning January 1, 2023, the total amount received by full-time hourly wage-paid employees as compensation for work performed in excess of 40 hours in a week and the total number of employees for which it was paid. **Employers are required to report this information to the Alabama Department of Revenue by January 31, 2024.** Second, starting with the tax year beginning on January 1, 2024, Alabama employers must supplement their initial report on either a monthly or quarterly basis.

Alaska

Reminder: State Paid Sick Leave in Effect – Eff Sept 25, 2025

PSL law went into effect on July 1, 2025, with the regulations taking effect as of September 25, 2025. The regulations apply to employers of all sizes in Alaska. The regulations largely clarify, verify, and expand on the state's existing [FAQs](#).

Below are highlights:

- Employers that don't designate a fixed 52-week benefit year will be considered to use a calendar year by default.
- Employers that frontload the full annual PSL allotment at the beginning of each benefit year don't have to allow carryover.
- Frontloaded PSL hours can be prorated for part-time employees and those hired mid-benefit year.
- Employers can't require that employees provide more than 10 calendar days' notice for foreseeable leave.
- Employers can have a policy allowing employees to cash out their PSL, upon the employee's written request.

Employer Notice

The regulations also add 2 new notice requirements that must be in writing and given to employees.

- First, employers must inform employees **if an existing paid leave policy will be used to satisfy PSL obligations**.
- Second, employers must inform employees of **any notice or verification requirements**.

The regulations also expand the methods employers can use to provide the required notice to employees. Acceptable methods will now include:

- A written notice given to each employee by mail, email, or attached to their paycheck
- A posting of the written notice in a conspicuous workplace location

State's Captive Audience Ban – Eff July 1, 2025



Employers will be prohibited from taking—or threatening to take—adverse action against an employee for not attending an employer-sponsored meeting if its primary purpose is to share the employer’s opinion on *religious or political matters*. The same applies to listening to employer communications for this purpose.

The law defines matters as **religious** if they relate to religious affiliation and practice and the decision to join or support any religious organization or institution. Matters are considered **political** if they relate to any of the following:

- Elections for political office, parties, and candidates
- Proposed legislation or regulations
- The decision to join or support any political party or political, civic, community, fraternal, or labor organization

The law contains several exceptions. For instance, it doesn’t apply to legally required communications, those necessary for employees to perform their job duties, and those directly related to the workplace. Additionally, the ban on religious meetings and communications doesn’t apply to religious organizations.

Employer Takeaway: Allow employees to opt out of any meeting or communication covered by this law and make sure supervisors understand the prohibition.

Updated Minimum Wage & Exempt Salary Threshold – Eff July 1, 2025

The updated minimum wage and minimum salary for exempt executive, administrative, and professional (EAP) employees will increase as follows:

- July 1, 2025: \$13 per hour and \$1,040 per week for EAP employees
- July 1, 2026: \$14 per hour and \$1,120 per week for EAP employees
- July 1, 2027: \$15 per hour and \$1,200 per week for EAP employees

Starting on January 1, 2028, the minimum wage and minimum salary for exempt EAP employees will be adjusted annually based on inflation.

State’s Paid Sick Leave & More Details – Eff July 1, 2025

In November 2024, Alaska voters approved a [ballot measure](#) requiring employers to provide paid sick leave to their workers, effective July 1, 2025. The Alaska Department of Labor and Workforce Development has published [answers to frequently asked questions](#) about the law, and it expects to issue regulations in the Spring of 2025.

Overview

Highlights of the Alaska paid sick leave law include the following:

- Employers must allow workers to accrue and use 40-56 hours of paid sick leave per year, depending on the employer’s size;
- Employees may take paid sick leave for reasons related to their or a family member’s health and preventive care, and when the employee or a family member is a victim of domestic violence, sexual assault or stalking;
- “Family member” includes (among others) a person cohabiting with the employee in a conjugal relationship and anyone whose close association with the employee is the equivalent of family;
- Unused, accrued paid sick leave carries over to the following year;
- Employers must provide employees with written notice of the law;
- Employers may require advance notice of leave and documentation supporting leave taken;
- Employers’ existing leave policies may meet the requirements of the law;
- Employers may not retaliate against employees for taking leave, including counting paid sick leave as an absence under an absence control policy; and
- Employers who violate the law may be liable for back wages and damages.

Covered Employers



All employers in Alaska are required to provide paid sick leave.

Eligible Employees

All Alaska workers, including part-time workers, are eligible for paid sick leave, except:

✓	Minors under 18 who work less than 30 hours per week. (If the minor works more than 30 hours in a week, they must earn sick
✓	Apprentices with a minimum wage exemption from the department;
✓	Student learners on a plan approved by the department;
✓	Seasonal employees of a nonprofit residential summer camp;
✓	Work therapy patients at a residential drug abuse or alcoholism treatment program;
✓	Employed prisoners;
✓	Employees covered by a collective bargaining agreement (CBA) that expressly waives the right to sick leave in clear and unambiguous terms;
✓	Employees exempt from minimum wage and overtime under the Alaska Wage and Hour Act, such as agricultural and fishing workers, domestic workers, babysitters, some nonprofit volunteers and newspaper deliverers, among others;
✓	Federal and state government employees;
✓	Railroad workers subject to the federal Railroad Unemployment Insurance Act; and
✓	Certain employees of motor vehicle dealers.

Accrual and
Beginning with

Carryover of Paid Sick Leave
an employee's
commencement of

employment or July 1, 2025 (whichever is later), employers must allow employees to accrue paid sick leave at a minimum rate of one hour of sick leave for every 30 hours of work. This ratio is used regardless of whether the hours worked are straight time, overtime, paid at different rates or worked in the same pay period. Employees on alternative schedules, rotational schedules or other non-traditional arrangements still earn one hour of sick leave for every 30 hours of work.

Salaried employees exempt from the overtime requirements of the federal Fair Labor Standards Act must be credited up to 40 hours of work per week if they normally work at least 40 hours in a week. If a salaried, exempt employee normally works fewer than 40 hours in a week, paid sick leave accrues based on that normal work week.

Paid sick leave is subject to the accrual and usage caps below:

Employers with fewer than 15 employees	Employees must be allowed to accrue and use up to 40 hours of sick leave per year.
Employers with 15 employees or more	Employees must be allowed to accrue and use up to 56 hours of sick leave per year.

Employees must be allowed to carry their paid sick leave balance forward into a new year, when they must begin to accrue leave again. While usage and accrual of paid sick leave is capped at either 40 or 56 hours per year, an employee's paid sick leave balance can exceed this.

Use of Paid Sick Leave



Employees must be allowed to use paid sick leave as it is accrued—there is no waiting period. Paid sick leave may be taken for the following reasons:

1	An employee's mental or physical illness, injury or health condition; the employee's need for medical diagnosis, care or treatment; or the employee's need for preventative medical care
2	Care or assistance to the employee's family member relating to the needs described above in Item 1
3	To obtain the following care or services for the employee or a family member because of domestic violence, sexual assault or stalking: Medical or psychological attention; Services from a victim's aid organization; Relocation or steps to secure an existing home; or Legal services, including participation in any investigation or civil or criminal proceeding

"Family member" is defined broadly to include the employee's:

- Immediate family members as defined by the Alaska Executive Branch Ethics Act, which includes the employee's spouse; cohabitating partner in a conjugal relationship that is not a legal marriage; child (including stepchild and adoptive child); parent, sibling, grandparent, aunt or uncle; and spouse's parent or sibling;
- Domestic partner;
- Foster child, legal ward or person to whom an employee stands in loco parentis;
- Foster parent, adoptive parent, legal guardian or a person who stood in loco parentis when the employee was a minor child; or
- Any other individual related to the employee by blood or whose close association with the employee is the equivalent of a family relationship.

Employees may use paid sick leave in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

There is no payout requirement for unused, accrued paid sick leave when employment ends. Employers may have a policy that allows employees to "cash out" unused, accrued paid time off and sick leave. However, employers may not mandate payout of yearly sick leave accrual. They must allow sick leave to roll over year to year.

Employers' Notice Obligations

Employers must give employees written notice of the following information at the start of employment or within 30 days of July 1, 2025, whichever is later:

- That beginning July 1, 2025, employees are entitled to paid sick leave;
- The amount of paid sick leave employees are entitled to;
- The terms of paid sick leave use guaranteed under the law; and
- That retaliation against employees who request or use paid sick leave is prohibited.

ETC Published State Handbook Addendum for AK – May 2025

New Paid Sick Leave Regulations - July 1, 2025

Alaska has approved a [ballot measure](#) requiring employers to provide paid sick leave to their workers starting July 1, 2025. The new law allows for 40-56 hours of paid sick time per year, depending on the employer's size.

July 1, 2025 - Employers must begin providing eligible employees with 40-56 hours of paid sick leave per year. The maximum requirement depends on employer size.

July 31, 2025 - Employers must provide employees with notice of their rights under the law.

Details included in the attached resource and will also be communicated in advance of the effective date.



State Votes in Favor of Captive Audience Ban – July 1, 2025

On Nov. 5, 2024, Alaska voters passed [Measure No. 1](#), which includes a captive audience ban that prohibits employers from requiring participation in religious or political meetings or communications. The new law takes effect July 1, 2025.

Arizona

State Increases Minimum Wage – Eff Jan 1, 2026

On January 1, 2026, the minimum wage rates in Arizona will increase as follows.

Statewide. The minimum wage will increase to \$15.15 per hour. The minimum base wage for tipped employees will increase to \$12.15 per hour.

Flagstaff: The minimum wage in Flagstaff will increase to \$18.35 per hour for all employees. The lower base wage for tipped employees will be eliminated, meaning employers will need to pay the entire \$18.35 directly.

Tucson: The minimum wage in Tucson will increase to \$15.45 per hour. The minimum base wage for tipped employees will be \$12.45 per hour.

California

State's Annual Workplace Rights Notices – Deadline Feb 1, 2026

Starting February 1, 2026, California employers must provide stand-alone written notices to all current employees informing them of certain compensation, union organizing rights, and certain constitutional rights. On October 12, 2025, Governor Gavin Newsom signed ([Senate Bill \("SB"\) 294](#)) into law, which codifies the **Workplace Know Your Rights Act**. The law also clarifies employers' duties if an employee is arrested during work.

- By **January 1, 2026**, the Labor Commissioner will provide a template notice for employers and also develop video resources on the law's rights and requirements.
- By **February 1, 2026**, employers must provide the notice to all current employees.
- By **March 30, 2026**, employers must give employees—and any new hire—the opportunity to designate an emergency contact to be reached in the event of the employee's arrest.

Notice Requirements and Covered Employees

Employers should provide updated notices annually thereafter, and to new employees upon hire. Employers must provide the notice in the appropriate language depending on the employee. English is sufficient for any language not provided in a template notice. The law covers all current employees.

Increased Minimum Wages – Eff Jan 1, 2026

The standard state minimum wage will increase to \$16.90 per hour. This will also increase the minimum salary threshold for exempt employees to \$70,304 per year. Employers covered by local or industry-specific minimum wages that are higher must comply with those rates.

LOCAL MINIMUM WAGES

The hourly minimum wage in these jurisdictions will increase as follows. If a locality has not yet announced its 2026 rate, TBD (to be determined) appears.

Belmont: \$18.95

Burlingame: \$17.86

Cupertino: \$18.70

Daly City: \$17.50

East Palo Alto: \$17.90



El Cerrito: \$18.82
Foster City: \$17.85
Half Moon Bay: \$17.91
Hayward (25 or fewer): \$16.90 (state rate)
Hayward (26 or more): \$17.79
Los Altos: \$18.70
Menlo Park: \$17.55
Mountain View: \$19.70
Novato (25 or fewer employees): \$16.90
Novato (26–99 employees): \$17.46
Novato (100 or more employees): \$17.73
Oakland: TBD
Oakland (hotels with health benefits): TBD
Oakland (hotels without health benefits): TBD
Palo Alto: \$18.70
Petaluma: \$18.31
Redwood City: \$18.65
Richmond (with benefits): \$17.68
Richmond (without benefits): \$19.18
San Carlos: \$17.75
San Diego: \$17.75
San Jose: \$18.45
San Mateo City: \$18.60
San Mateo County (unincorporated areas): \$17.95
Santa Clara City: \$18.70
Santa Rosa: \$18.21
Sonoma City (25 or fewer employees): \$17.38
Sonoma City (26 or more employees): \$18.47
South San Francisco: \$18.15
Sunnyvale: \$19.50
West Hollywood (non-hotel employees): \$20.25

State Increases Computer Professional Exemption Wage Rate – Jan 1, 2026

Each year, the California Department of Industrial Relations (DIR) sets the compensation threshold for the California computer professional exemption. [1], [2] On October 28, 2025, the DIR published a [memo](#) increasing the compensation threshold to \$122,573.13 annually (\$10,214.44 monthly), or an hourly wage of \$58.85. [3] These new rates are set to take effect on January 1, 2026. This reflects an increase of 3.3% over 2025 rates and aligns with inflation rates over the last year as measured by the California Consumer Price Index (CPI). [4]

California employers must ensure that compensation rates for computer professionals meet new compensation thresholds as of January 1, 2026.

On January 1, 2026, California's minimum wage will increase from \$16.50 to \$16.90 per hour.

Certain industries in the state of California, such as fast food and healthcare, are subject to [higher minimum wage thresholds than the state's minimum wage](#). Fast food workers currently earn a minimum of \$20 per hour. The healthcare worker's minimum wage is based on a tiered system, which is higher than the state's minimum wage, and which is set to increase on July 1, 2026.

A myriad of additional **Local & County Minimum Wages** are also being updated. Access the provided CA Dept of Industrial Relations provided resource [HERE](#)



State Adds Leave Rights: Jurors, Witnesses & Crime Victims – Oct 1, 2025 & Jan 1, 2026

Overview: Victim, juror and witness leave may qualify under the paid sick leave law starting **January 1, 2026**

California has [amended](#) the state's nondiscrimination laws to expand the laws' robust employee leave rights for crime victims (AB 2499). The amendments also added paid sick leave rights under the California Healthy Workplaces, Healthy Families Act for victims, jurors and witnesses.

California's Government Code already prohibits all employers from discharging, discriminating or retaliating against employees who take unpaid time off to serve as a juror or witness or to seek certain services as victims of qualifying acts of violence.

Effective Jan. 1, 2026, the prohibition is expanded to protect employees who are victims of specific crimes (or whose family member is a victim) from taking time off to attend judicial proceedings related to those crimes. The judicial proceedings include, but are not limited to, delinquency proceedings, post-arrest release decisions, pleas, sentencings, postconviction release decisions or any proceeding where a right of the employee is an issue.

The new prohibition applies to victims (and family members) of serious or violent felonies, theft or embezzlement, or direct or threatened physical, psychological or financial harm as a result of the attempt or commission of the following: vehicular manslaughter while intoxicated, felony child abuse likely to produce great bodily harm or death, assault resulting in the death of a child under 8 years of age, felony domestic violence, felony physical abuse of an elder or dependent adult, felony stalking, solicitation for murder, a serious felony, hit-and-run causing death or injury, felony driving under the influence causing injury, and sexual assault.

Effective **Oct. 1, 2025**, the right to use paid sick leave under the Healthy Workplaces, Healthy Families Act applies to the **juror and witness leaves** provided in the nondiscrimination law as well. The amendments clarify that victims of qualified acts of violence may also use paid sick leave under the law.

Employees may use available vacation, personal leave, paid sick leave or comp time during the otherwise unpaid leave described above that takes effect **Jan. 1, 2026**.

State Amends Annual Pay Data Reporting Requirements – Jan 1, 2026 & 2027

On Oct. 13, 2025, California [amended](#) the California Fair Employment and Housing Act's (FEHA) pay data reporting requirements to **modify storage requirements** and impose mandatory **penalties**, effective **Jan. 1, 2026**, and to increase the number of **job categories**, effective **Jan. 1, 2027**, for employers with 100 or more total employees (with at least 1 employees or workers hired through labor contractors in the state).

This annual workforce pay data report requirements is filed with the California Civil Rights Department (CRD) and must include the number of employees by race, ethnicity and sex in each of 10 job categories.

Effective **Jan. 1, 2026**:

- Employers and labor contractors must collect and store demographic data separately from personnel records; and
- A court **must** impose a penalty if the CRD requests a penalty be imposed on an employer for failure to file a pay data report. Previously, courts could, but were not required to, impose penalties. However, the penalty amounts (\$100 per employee for the first failure and \$200 per employee for each subsequent failure) remain the same.

Employer Takeaway: Employers may review and update existing workforce data collection and storage practices to ensure such data is separated from personnel records. In addition, employers may consider taking steps now to ensure they are able to report workforce data using the updated job categories when the new categories take effect.



State Amends Annual Pay Transparency & Equal Pay Laws – Jan 1, 2026

On Oct. 8, 2025, California [amended](#) its pay transparency law (under SB 642) and the California Equal Pay Act (CEPA).

The **amendments clarify the pay scale** that is to be included in job postings under the pay transparency law and extend the statute of limitations, amend damages calculations and create new definitions under the CEPA.

The amendments take effect **Jan. 1, 2026**.

Employer Takeaway: Employers may wish to begin reviewing existing job postings to ensure that they reflect the amount to be paid upon hire and other equal pay practices to ensure they comply with the updated CEPA definitions of “sex,” “wages” and “wage rates” to ensure compliance.

Pay Transparency Amendment

- California employers with **15 or more employees** must include the pay scale for a position in all job postings.
- All employers must disclose **the pay scale to employees and applicants upon request**.
- The amended law clarifies that **the pay scale** must be a **good-faith estimate** of the salary or hourly wage range that the employer reasonably expects to pay for the position **upon hire**.
- CEPA prohibits all employers in the state from discriminating in the payment of wages based on sex, race or ethnicity for substantially similar work.
- Amended CEPA adopts the definition of “**sex**” used in the California Fair Employment and Housing Act (FEHA). Under the FEHA, sex includes but is not limited to pregnancy, childbirth, breastfeeding or related medical conditions, and gender (including gender identity and gender expression).
- Amended CEPA also defines “**wages**” and “**wage rates**” to include all forms of pay, including but not limited to salary, overtime pay, bonuses, stock, stock options, profit-sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits.

State Bans TRAPs & Stay-or-Pay Provisions (as seen in many Sign-On Bonus Programs) – Jan 1, 2026

On Oct. 13, 2025, California passed a [bill](#) (AB 692) to ban certain training and retention repayment provisions (TRAPs) and other stay-or-pay provisions in employment contracts. The new law takes effect **Jan. 1, 2026**.

For contracts entered into on or after Jan. 1, 2026, employers will be prohibited from including in any employment contract or requiring, as a condition of employment, a contract term that does any of the following:

- Requires the worker to pay an employer, training provider or debt collector for a debt if the worker’s employment or work relationship with a specific employer terminates;
- Authorizes the employer, training provider or debt collector to resume or initiate collection of or end forbearance on a debt if the worker’s employment or work relationship with a specific employer terminates; or
- Imposes any penalty, fee or cost on a worker if the worker’s employment or work relationship with a specific employer terminates.

For companies that rely on sign-on bonuses to compete for talent, the impact is clear: **Most sign-on bonuses with a claw back provision will be impermissible in California unless they are structured to fit a narrow exception.**

AB 692 prohibits provisions that require an employee to repay a “debt” to their employer if their employment terminates, or that otherwise impose a penalty, fee or cost on a worker if the worker’s employment or work relationship terminates.

Two key exceptions to this prohibition include:



- **Transferable credential tuition costs:** A contract to repay the cost of tuition for a transferable credential is permitted, if the contract meets all of the following conditions:
 1. The contract is separate from the employment contract.
 2. Obtaining the transferable credential is not a condition of employment.
 3. The contract specifies a repayment amount not exceeding the actual cost of the credential to the employer.
 4. The repayment amount is prorated and is not accelerated if the worker separates.
 5. No repayment is required if the worker's employment is terminated by the employer, unless for misconduct.
- **Discretionary monetary bonuses:** Contracts for the receipt of a "discretionary or unearned monetary payment" at the outset of employment that is not tied to specific job performance (including a financial bonus, such as a sign-on or relocation bonus) are permitted, if the contract meets all of the following conditions:
 1. Repayment terms are contained in a contract separate from the employment contract.
 2. The employee is notified that they have the right to consult an attorney regarding the agreement and given at least five business days to do so.
 3. Any repayment obligation is prorated based on the remaining term of any retention period (not to exceed two years) and is not subject to interest accrual.
 4. The worker can defer receipt of payment to the end of a fully served retention period without any repayment obligation.
 5. Separation from employment prior to the end of the retention period is at the employee's sole discretion, or at the employer's election due to employee misconduct.

In practice, **many existing form documents containing sign-on bonus provisions will not satisfy these conditions and should not be used with California hires after December 31, 2025.**

Employers that violate this new law will be responsible for liability in the amount of actual damages or \$5,000 per worker, whichever is greater, plus injunctive relief and attorneys' fees and costs.

Employer Takeaway: Employers can begin reviewing and updating existing contract templates to ensure they do not contain any unlawful TRAPs or stay-or-pay provisions. Employers may also consider revising any unlawful contracts or repayment programs to comply with one of the law's enumerated exceptions.

State Expands CalWARN Notice Content Requirements – Jan 1, 2026

On Oct. 1, 2025, California [amended](#) the California Worker Adjustment and Retraining Notification Act (CalWARN) (SB 294) to add additional content requirements for notices of mass layoffs, relocations or terminations. The new requirements take effect on Jan. 1, 2026.

Overview

CalWARN requires employers that operate a covered establishment (a facility employing **75 or more employees** in the preceding 12 months) to provide at least 60 days' advance notice to affected employees and certain government parties of any mass layoff, relocation or termination of a covered establishment.

The notice must include all of the elements required under the federal WARN Act.

Effective Jan. 1, 2026, CalWARN will require employers to provide the following information **in addition to existing requirements** in any required notices:

- An indication of whether the employer plans to coordinate services, such as a rapid response orientation, through the local workforce development board or a different entity, or does not plan to coordinate services;
- A functioning email and telephone number of the local workforce development board and the following description: "Local Workforce Development Boards and their partners help laid-off workers find new jobs. Visit



an America's Job Center of California location near you. You can get help with your resume, practice interviewing, search for jobs and more. You can also learn about training programs to start a new career.”;

- A description of CalFresh, the statewide food assistance program, the CalFresh benefits helpline and a link to the CalFresh internet website; and
- A functioning email and telephone number of the employer for contact.

Additionally, if the employer chooses to coordinate services with the local workforce development board or another entity, the employer must arrange services within **30 days** from the date of the notice.

State Law Expands Unpaid Wage Judgement Enforcement – Jan 1, 2026

On Oct. 13, 2025, California [enacted](#) a new law that expands unpaid wage judgment enforcement by introducing triple penalties, mandatory attorney fees and broad prosecutorial authority for the labor commissioner's office. The new law takes effect on Jan. 1, 2026.

Employer Takeaway: Considering California's new unpaid wage judgment enforcement, employers should identify and resolve any DLSE orders, decisions or wage judgments before penalties accrue. If employers have outstanding orders, decisions or wage judgments, they can comply with the settlement or payment plan to avoid any penalties under the new law.

State Regulation IVF Coverage Mandate – Eff 2026

Although ETC does not typically focus on individual state mandated benefit related regulations, the state of California once again sets precedent with Governor Newsom recently signing into law AB 116 which delays compliance with the new state in vitro fertilization (IVF) coverage mandate.

As a result, applicable large employers with benefits renewals between July 1, 2025, and December 1, 2025, will now be required to comply with the new infertility coverage mandate when their plans renew in [2026](#).

While large, insured medical plans renewing January 1 through June 1 will be required to comply with the new mandate [as of their plan renewal in 2026](#).

Employers in the small group market will not have to consider offering an infertility rider that mirrors coverage in the large group market, until their plan's renewal on or after January 1, 2026.

Employers seeking to learn more are advised to engage their benefits broker directly to navigate this new obligation.

Los Angeles Updates Freelance Worker Protections Ordinance

With the California Freelance Worker Protection Act (FWPA) now in effect statewide as of January 1, 2025, the **City of Los Angeles** recently revised its Freelance Worker Protections Ordinance (FWPO) to clarify how the two laws interact. These updates are important for both freelance workers and hiring entities operating in or around Los Angeles.

Read more about the Key Distinction: State vs. City Coverage in Littler's November 12th ASAP publication [HERE](#)

Reminder: State's Annual Workplace Rights Notices – Deadline Feb 1, 2026

Starting February 1, 2026, California employers must provide stand-alone written notices to all current employees informing them of certain compensation, union organizing rights, and certain constitutional rights. On October 12, 2025, Governor Gavin Newsom signed ([Senate Bill \("SB"\) 294](#)) into law, which codifies the Workplace Know Your Rights Act. The law also clarifies employers' duties if an employee is arrested during work.



- By **January 1, 2026**, the Labor Commissioner will provide a template notice for employers and also develop video resources on the law's rights and requirements.
- By **February 1, 2026**, employers must provide the notice to all current employees.
- By **March 30, 2026**, employers must give employees—and any new hire—the opportunity to designate an emergency contact to be reached in the event of the employee's arrest.

Notice Requirements and Covered Employees

Employers should provide updated notices annually thereafter, and to new employees upon hire. Employers must provide the notice in the appropriate language depending on the employee. English is sufficient for any language not provided in a template notice. The law covers all current employees.

Reminder: Personnel Records Changes – Eff **Oct 11, 2025**

[SB 513](#) amends Labor Code Section 1198.5, signed into law of October 11th, to make education and training records explicitly part of the “personnel records” that current and former employees (or their authorized representatives) have the right to inspect and copy. Employers who do not typically send these records to an employee's personnel file must now do so and must further ensure they include all required information.

Failing to meet these requirements can expose employers to penalties, including criminal liability. SB 513 also enforces transparency and accountability in workforce development, making training documentation a legal obligation

Reminder: State Increases Computer Professional Exemption Wage Rate – **Jan 1, 2026**

Each year, the California Department of Industrial Relations (DIR) sets the compensation threshold for the California computer professional exemption. [\[1\]](#), [\[2\]](#) On October 28, 2025, the DIR published a [memo](#) increasing the compensation threshold to \$122,573.13 annually (\$10,214.44 monthly), or an hourly wage of \$58.85. [\[3\]](#) These new rates are set to take effect on January 1, 2026. This reflects an increase of 3.3% over 2025 rates and aligns with inflation rates over the last year as measured by the California Consumer Price Index (CPI). [\[4\]](#)

California employers must ensure that compensation rates for computer professionals meet new compensation thresholds as of January 1, 2026.

On January 1, 2026, California's minimum wage will increase from \$16.50 to \$16.90 per hour.

Certain industries in the state of California, such as fast food and healthcare, are subject to [higher minimum wage thresholds than the state's minimum wage](#). Fast food workers currently earn a minimum of \$20 per hour. The healthcare worker's minimum wage is based on a tiered system, which is higher than the state's minimum wage, and which is set to increase on July 1, 2026.

A myriad of additional **Local & County Minimum Wages** are also being updated. Access the provided CA Dept of Industrial Relations provided resource [HERE](#)

Reminder: State Adds Leave Rights–Victims, Jurors & Witnesses – **Oct 1, 2025 & Jan 1, 2026**

Overview: Victim, juror and witness leave may qualify under the paid sick leave law starting January 1, 2026

California has [amended](#) the state's nondiscrimination laws to expand the laws' robust employee leave rights for victims. The amendments also added paid sick leave rights under the California Healthy Workplaces, Healthy Families Act for victims, jurors and witnesses.



California's Government Code already prohibits all employers from discharging, discriminating or retaliating against employees who take unpaid time off to serve as a juror or witness or to seek certain services as victims of qualifying acts of violence.

Effective Jan. 1, 2026, the prohibition is expanded to protect employees who are victims of specific crimes (or whose family member is a victim) from taking time off to attend judicial proceedings related to those crimes. The judicial proceedings include, but are not limited to, delinquency proceedings, post-arrest release decisions, pleas, sentencing, postconviction release decisions or any proceeding where a right of the employee is an issue.

The new prohibition applies to victims (and family members) of serious or violent felonies, theft or embezzlement, or direct or threatened physical, psychological or financial harm as a result of the attempt or commission of the following: vehicular manslaughter while intoxicated, felony child abuse likely to produce great bodily harm or death, assault resulting in the death of a child under 8 years of age, felony domestic violence, felony physical abuse of an elder or dependent adult, felony stalking, solicitation for murder, a serious felony, hit-and-run causing death or injury, felony driving under the influence causing injury, and sexual assault.

Effective **Oct. 1, 2025**, the right to use paid sick leave under the Healthy Workplaces, Healthy Families Act applies to the **juror and witness leaves** provided in the nondiscrimination law as well. The amendments clarify that victims of qualified acts of violence may also use paid sick leave under the law.

Employees may use available vacation, personal leave, paid sick leave or comp time during the otherwise unpaid leave described above that takes effect **Jan. 1, 2026**.

ETC will review further and publish an updated State Handbook Addendum, if needed.

Reminder: State Amends Annual Pay Data Reporting Requirements – Jan 1, 2026 & 2027

On Oct. 13, 2025, California [amended](#) the California Fair Employment and Housing Act's (FEHA) pay data reporting requirements to **modify storage requirements** and impose mandatory **penalties**, effective **Jan. 1, 2026**, and to increase the number of **job categories**, effective **Jan. 1, 2027**, for employers with 100 or more total employees (with at least 1 employee or workers hired through labor contractors in the state).

This annual workforce pay data report requirements is filed with the California Civil Rights Department (CRD) and must include the number of employees by race, ethnicity and sex in each of 10 job categories.

Effective **Jan. 1, 2026**:

- Employers and labor contractors must collect and store demographic data separately from personnel records; and
- A court **must** impose a penalty if the CRD requests a penalty be imposed on an employer for failure to file a pay data report. Previously, courts could, but were not required to, impose penalties. However, the penalty amounts (\$100 per employee for the first failure and \$200 per employee for each subsequent failure) remain the same.

Employer Takeaway: Employers may review and update existing workforce data collection and storage practices to ensure such data is separated from personnel records. In addition, employers may consider taking steps now to ensure they are able to report workforce data using the updated job categories when the new categories take effect.

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The **amendments clarify the pay scale** that is to be included in job postings under the pay transparency law and extend the statute of limitations, amend damages calculations and create new definitions under the CEPA.



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Employer Takeaway: Employers may wish to begin reviewing existing job postings to ensure that they reflect the amount to be paid upon hire and other equal pay practices to ensure they comply with the updated CEPA definitions of “sex,” “wages” and “wage rates” to ensure compliance.

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The notice must include all of the elements required under the federal WARN Act.



Effective Jan. 1, 2026, CalWARN will require employers to provide the following information **in addition to existing requirements** in any required notices:

- An indication of whether the employer plans to coordinate services, such as a rapid response orientation, through the local workforce development board or a different entity, or does not plan to coordinate services;
- A functioning email and telephone number of the local workforce development board and the following description: "Local Workforce Development Boards and their partners help laid-off workers find new jobs. Visit an America's Job Center of California location near you. You can get help with your resume, practice interviewing, search for jobs and more. You can also learn about training programs to start a new career.";
- A description of CalFresh, the statewide food assistance program, the CalFresh benefits helpline and a link to the CalFresh internet website; and
- A functioning email and telephone number of the employer for contact.

Additionally, if the employer chooses to coordinate services with the local workforce development board or another entity, the employer must arrange services within **30 days** from the date of the notice.

Reminder: State Law Expands Unpaid Wage Judgement Enforcement – Jan 1, 2026

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Reminder: State Regulation IVF Coverage Mandate – Eff 2026

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Employers in the small group market will not have to consider offering an infertility rider that mirrors coverage in the large group market, until their plan's renewal on or after January 1, 2026.

Employers seeking to learn more are advised to engage their benefits broker directly to navigate this new obligation.

Personnel Records Changes – Eff Oct 11, 2025

[SB 513](#) amends Labor Code Section 1198.5, signed into law of October 11th, to make education and training records explicitly part of the "personnel records" that current and former employees (or their authorized representatives) have the right to inspect and copy. Employers who do not typically send these records to an employee's personnel file must now do so and must further ensure they include all required information.

Employers that maintain education or training records should follow these guidelines:

1. Documentation



The amendment now expressly includes education and training records within the definition of personnel records. Employers who maintain education and training records must ensure they contain the following information.

2. The employee's name.
3. The training provider's name.
4. The duration and date of the training.
5. The core competencies covered (including equipment or software skills).
6. Any resulting certification or qualification.

The amended statute does not impose an independent obligation on employers to maintain education and training records. However, if an employer does so, it must make sure that those records include the above information. Presumably, this new statutory requirement will disincentivize employers from maintaining records relating to education and training unless they are otherwise required to do by another statute or regulation.

2. Timely Access Still Applies

The 30-day rule remains. Employers must respond to written requests for inspection or copies within 30 calendar days, unless both parties agree in writing to extend up to 35 days from the date the employer's receipt of the written request.

3. Retention Requirements

Employers must retain personnel records—including these expanded education and training records—for at least three years after an employee's termination.

4. One Request Rule for Former Employees

Former employees may only make one request per year to inspect or receive a copy of their records.

5. Verification and Forms

Employers may verify the identity of the requester and can require use of an employer-provided form, which must be made available upon verbal request.

Failing to meet these requirements can expose employers to penalties, including criminal liability. SB 513 also enforces transparency and accountability in workforce development, making training documentation a legal obligation

State Expands PFL Eligibility to "Designated Persons" – Eff July 1, 2026 with Funded Benefits Available July 1, 2025

Following California's 2023 expansion of job-protected, unpaid family medical leave and paid sick and safe time and its 2025 expansion of job-protected, unpaid leave for victims of violence to include use for a "**designated** person," Governor Gavin Newsom signed [SB 590](#) on October 13, 2025, which broadens eligibility for the state's Paid Family Leave (PFL) law.

PFL wage replacement benefits claims filed on or after **July 1, 2028** will be available for employees who take time off work to care for a "designated person" with a serious illness, which the law defines as any care recipient related by blood or whose association with the individual is the equivalent of a family relationship. Employees will have to identify their "designated person" at the time they request benefits and attest under penalty of perjury to either: (1) how the individual is related by blood to the designated person; or (2) how the individual's association with the designated person is the equivalent of a family relationship.

PFL is a wage replacement benefit program administered by the state (unless an employer has a qualifying voluntary plan) that does not provide a job-protected leave of absence. Currently, PFL benefit eligibility is limited to: (1) bonding leave for new parents, including foster and adoptive parents; (2) family care leave for family members with a serious illness; and (3) military assistance leave for employees taking time off to support military-family members deploying to a foreign country.



SB 590 follows a familiar trend in California. Below we identify the “designated person” standards under the paid sick and safe time law (Healthy Workplaces Healthy Families Act (HWHFA)), the unpaid victims of violence leave law, the unpaid family medical leave law (California Family Rights Act (CFRA)), and now, the paid family leave law (PFL).

State Increases Computer Professional Exemption Wage Rate – Jan 1, 2026

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California employers must ensure that compensation rates for computer professionals meet new compensation thresholds as of January 1, 2026.

State Adds Leave Rights–Victims, Jurors & Witnesses – Oct 1, 2025 & Jan 1, 2026

Overview: Victim, juror and witness leave may qualify under the paid sick leave law starting January 1, 2026

California has [amended](#) the state’s nondiscrimination laws to expand the laws’ robust employee leave rights for victims. The amendments also added paid sick leave rights under the California Healthy Workplaces, Healthy Families Act for victims, jurors and witnesses.

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The new prohibition applies to victims (and family members) of serious or violent felonies, theft or embezzlement, or direct or threatened physical, psychological or financial harm as a result of the attempt or commission of the following: vehicular manslaughter while intoxicated, felony child abuse likely to produce great bodily harm or death, assault resulting in the death of a child under 8 years of age, felony domestic violence, felony physical abuse of an elder or dependent adult, felony stalking, solicitation for murder, a serious felony, hit-and-run causing death or injury, felony driving under the influence causing injury, and sexual assault.

Effective **Oct. 1, 2025**, the right to use paid sick leave under the Healthy Workplaces, Healthy Families Act applies to the **juror and witness leaves** provided in the nondiscrimination law as well. The amendments clarify that victims of qualified acts of violence may also use paid sick leave under the law.

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ETC will review further and publish an updated State Handbook Addendum, if needed.

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increase the number of **job categories**, effective **Jan. 1, 2027**, for employers with 100 or more total employees (with at least 1 employees or workers hired through labor contractors in the state).

This annual workforce pay data report requirements is filed with the California Civil Rights Department (CRD) and must include the number of employees by race, ethnicity and sex in each of 10 job categories.

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Effective **Jan. 1, 2027**, the list of job categories will increase from 10 to 23 to align job categories with the Standard Occupational Classification system used by the U.S. Bureau of Labor Statistics. The new categories will include:

- Chief executives;
- Management occupations, except chief executives;
- Business and financial operations occupations;
- Computer and mathematical occupations;
- Architecture and engineering occupations;
- Life, physical and social science occupations;
- Community and social science occupations;
- Legal occupations;
- Educational instruction and library occupations;
- Art, design, entertainment, sports and media occupations;
- Health care practitioners and technical occupations;
- Health care support occupations;
- Protective service occupations;
- Food preparation and serving-related occupations;
- Building and ground cleaning and maintenance occupations;
- Personal care and service occupations;
- Sales and related occupations;
- Office and administrative support occupations;
- Farming, fishing and forestry occupations;
- Construction and extraction occupations;
- Installation, maintenance and repair occupations;
- Production occupations; and
- Transportation and material moving occupations.

Employer Takeaway: Employers may review and update existing workforce data collection and storage practices to ensure such data is separated from personnel records. In addition, employers may consider taking steps now to ensure they are able to report workforce data using the updated job categories when the new categories take effect.

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On Oct. 13, 2025, California passed a [bill](#) to ban certain training and retention repayment provisions (TRAPs) and other stay-or-pay provisions in employment contracts. The new law takes effect **Jan. 1, 2026**.

For contracts entered into on or after Jan. 1, 2026, employers will be prohibited from including in any employment contract or requiring, as a condition of employment, a contract term that does any of the following:

- Requires the worker to pay an employer, training provider or debt collector for a debt if the worker’s employment or work relationship with a specific employer terminates;
- Authorizes the employer, training provider or debt collector to resume or initiate collection of or end forbearance on a debt if the worker’s employment or work relationship with a specific employer terminates; or
- Imposes any penalty, fee or cost on a worker if the worker’s employment or work relationship with a specific employer terminates.

Exceptions

The new law does not apply to contracts:

- Entered into under a loan repayment assistance or forgiveness program;
- Related to repayment of the cost of tuition for a transferable credential if:
 - It is offered separately from any employment contract;
 - The obtaining of the credential is not a condition of employment;
 - It specifies the repayment amount before the worker agrees to the contract, and such amount does not exceed the cost of the credential;
 - It provides for prorated repayment proportional to the total repayment amount and length of required employment period, and it does not require an accelerated payment schedule if the worker separates from employment; and
 - It requires repayment only if the worker resigns voluntarily or is terminated for misconduct;
- Related to enrollment in approved apprenticeship programs;
- For discretionary or unearned monetary payments (including financial bonuses) at the outset of employment that are not tied to job performance, if:
 - Repayment terms are set forth in a separate agreement;
 - The employee is notified of the right to consult an attorney and given at least five business days to do so;



- Any repayment obligation for early separation is not subject to interest accrual and is prorated for the remainder of the retention period, up to two years from the receipt of payment;
- The worker may defer payment to the end of the retention period without any repayment obligation; and
- Repayment is only required if the employee voluntarily resigns or is terminated for misconduct; or
- Related to leasing, financing or purchasing residential property.

Employer Takeaway: Employers can begin reviewing and updating existing contract templates to ensure they do not contain any unlawful TRAPs or stay-or-pay provisions. Employers may also consider revising any unlawful contracts or repayment programs to comply with one of the law's enumerated exceptions.

Immigration Rights Notice & Named Emergency Designee – Feb 1 & Mar 30, 2026

On Oct. 12, 2025, California [enacted](#) the Workplace Know Your Rights Act (Act), which requires employers to provide each current employee with an **annual stand-alone written notice** of specified workers' protections against unfair immigration-related practices and their constitutional rights when interacting with law enforcement in the workplace.

- The Labor Commission will prepare a template notice by Jan. 1, 2026.
- The first notice must be provided to employees on or before **Feb. 1, 2026**.
- ETC will provide the Notice once it is published.

Designated Emergency Contact

If requested by an employee, employers must notify the **employee's designated emergency contact in the event the employee is arrested or detained at work**.

Employers must give employees the opportunity to designate an emergency contact no later than **March 30, 2026** (or at the time of hire for employees hired after that date).

In designating an emergency contact, employees must be allowed to indicate whether the emergency contact should be notified if the employee is arrested or detained on their worksite, or during the performance of the employee's job duties away from the worksite.

State Expands CalWARN Notice Content Requirements – Jan 1, 2026

On Oct. 1, 2025, California [amended](#) the California Worker Adjustment and Retraining Notification Act (CalWARN) (SB 294) to add additional content requirements for notices of mass layoffs, relocations or terminations. The new requirements take effect on Jan. 1, 2026.

Overview

CalWARN requires employers that operate a covered establishment (a facility employing **75 or more employees** in the preceding 12 months) to provide at least 60 days' advance notice to affected employees and certain government parties of any mass layoff, relocation or termination of a covered establishment.

The notice must include all of the elements required under the federal WARN Act.

Effective Jan. 1, 2026, CalWARN will require employers to provide the following information **in addition to existing requirements** in any required notices:

- An indication of whether the employer plans to coordinate services, such as a rapid response orientation, through the local workforce development board or a different entity, or does not plan to coordinate services;
- A functioning email and telephone number of the local workforce development board and the following description: "Local Workforce Development Boards and their partners help laid-off workers find new jobs. Visit an America's Job Center of California location near you. You can get help with your resume, practice interviewing, search for jobs and more. You can also learn about training programs to start a new career.";



- A description of CalFresh, the statewide food assistance program, the CalFresh benefits helpline and a link to the CalFresh internet website; and
- A functioning email and telephone number of the employer for contact.

Additionally, if the employer chooses to coordinate services with the local workforce development board or another entity, the employer must arrange services within **30 days** from the date of the notice.

State Law Expands Unpaid Wage Judgement Enforcement – Jan 1, 2026

On Oct. 13, 2025, California [enacted](#) a new law that expands unpaid wage judgment enforcement by introducing triple penalties, mandatory attorney fees and broad prosecutorial authority for the labor commissioner's office. The new law takes effect on Jan. 1, 2026.

Employer Takeaway: Considering California's new unpaid wage judgment enforcement, employers should identify and resolve any DLSE orders, decisions or wage judgments before penalties accrue. If employers have outstanding orders, decisions or wage judgments, they can comply with the settlement or payment plan to avoid any penalties under the new law.

State Adopts New Employment AI Regulations – Eff Oct 1, 2025

Employer Takeaways:

Employers that use automated decision systems (ADS) in making employment decisions and AI vendors whose products are used in the employment arena should take concrete steps to prepare for the implementation of the new Regulations on October 1, including:

- Identify the ADS systems used in employment decision-making;
- Review & amend record retention policies to ensure records are retained for at least 4 years;
- Ensure HR and managers are aware that accommodations for disability or religion might be required when using an ADS in employment decisions/ Update anti-discrimination and reasonable accommodation policies to address the use of ADS systems;
- Perform anti-bias testing, establishing a plan outlining the frequency and nature of such testing, and documenting the testing process/criteria, results, and steps taken to address results, as appropriate; and

The California Civil Rights Council (CRC) recently [announced](#) that it has finalized regulations that clarify how California's anti-discrimination laws apply to the use of artificial intelligence (AI) and automated decision systems (ADSs) in employment decision-making (the "Regulations").

The [Regulations](#) amend the existing regulatory framework providing that the use of an ADS (including AI) in making employment decisions **can** violate California law if such tools discriminate against employees or applicants – either directly or due to disparate impact – on the basis of protected characteristics (including race, age, religious creed, national origin, gender, and disability). Additionally, the Regulations apply to all employers in California that use "artificial intelligence, machine-learning, algorithms, statistics, and/or other data processing" to facilitate human decision-making with respect to the recruitment, hiring, and promotion of job applicants or employees.

Prohibited Discrimination Due to Use of an ADS and Reasonable Accommodations

The regulations prohibit employers from using an ADS or selection criteria (including a qualification standard, employment test, or proxy) that discriminates against applicants or employees based on protected categories defined under the FEHA. § 11009(f). The term "proxy" is newly defined as "[a] characteristic or category closely correlated with" a protected category under FEHA. § 11008(l). The new regulations further make clear that the use of facially neutral ADS selection tools that have an "adverse



impact” on applicants or employees based on a protected characteristic are impermissible under FEHA unless the employer or covered entity can show that the selection practice is “job-related and consistent with business necessity.” § 11017(e). Thus, as with other selection criteria used in making employment decisions, even if an employer does not intentionally use an ADS (including AI) to discriminate among applicants or employees, it can be liable for violating FEHA if the use of the ADS creates disparate impact.

The regulations caution that the use of an ADS that, for example, measures an applicant’s skill, dexterity, reaction time, and/or other abilities or characteristics may discriminate against individuals with certain disability or other protected characteristics. § 11016(c)(5). Similarly, an ADS that, for example, analyzes an applicant’s tone of voice, facial expressions, or other physical characteristics or behavior may discriminate against employees or applicants based on race, national origin, gender, disability, or other protected characteristics. § 11016(d)(1). Accordingly, to avoid unlawful discrimination, employers may need to provide reasonable accommodation to an applicant or employee consistent with the FEHA’s religious creed and disability protections. §§ 11016(c)(5) and (d)(1).

Anti-Bias Testing as Affirmative Defense

The Regulations provide that, to defend against a discrimination claim based on the use of an ADS, employers can show that they performed “anti-bias testing or similar proactive efforts to avoid unlawful discrimination” prior to and after adopting an ADS. § 11009(f). The regulations identify six relevant aspects of such testing, including the quality, efficacy, recency, and scope of such testing, as well as the results of the testing or other due diligence and the employer’s response to the results (e.g., whether and how the employer responded to the results).

Extended Record Retention Requirements

The regulations were also amended to require employers and covered entities to preserve personnel and other employment records subject to the following requirements:

- Records must be retained for at least four years from the later of (a) the date the record was made, or (b) the date of the personnel action – an increase from the previous requirement to preserve records for two years;
- Records subject to this requirement include selection criteria, automated decision system data, applications, personnel records, membership records, employment referral records, and other records “created or received by the employer or other covered entity dealing with any employment practice and affecting any employment benefit of any applicant or employee;” and
- “Automated-decision system data” includes (a) any data used in or resulting from the application of an ADS, such as data provided by or about individual applicants or employees, or data reflecting employment decision or outcomes, and/or (b) any data used to develop or customize an ADS for use by a particular employer or other covered entity.

Upcoming Minimum Wage Increases – Eff Jan 1, 2026

The Department of Finance [announced](#) the minimum wage on August 1, 2025.

The standard state minimum wage will increase to **\$16.90** per hour on January 1, 2026.

This will also increase the minimum salary threshold for exempt employees to **\$70,304 per year**.

Employers covered by local or industry-specific minimum wages that are higher must comply with those rates.

State Publishes Required Victim Leave Notice – Eff July 1, 2025

Last year, California expanded its victim protection leave law and added a new notice requirement for employers of all sizes.



Although the notice requirement took effect July 1, 2025, employers weren't required to comply until the California Civil Rights Department (CRD) released a model notice. That time has come—the [model notice](#) is now available.

Employers need to provide this notice:

- To new employees upon hire
- To all employees annually
- At any time upon request
- Any time an employee informs the employer that they or their family member is a victim

Employers that choose to create their own notice should ensure it meets the requirements of the law. The CRD also recently released general [FAQs](#) on the state's victim protection leave law.

NOTES:

- If you have **25 or more employees**, additional protections apply to employees whose **family members** are victims of a qualifying act of violence, including a broadly defined list that covers a child, parent, grandparent, grandchild, sibling, spouse, domestic partner, or "designated person" who can be someone related by blood, such as an aunt or uncle, or someone who is equivalent to a family member, such as a best friend. Employers may limit an employee to one "designated person" per 12-month period.
- Employees they may be eligible for wage replacement under State Disability Insurance or Paid Family Leave and may qualify for bereavement leave and other forms of crime victim leave under separate Labor Code provisions and applicable law.

State Regulation IVF Coverage Mandate

Although ETC does not typically focus on individual state mandated benefit related regulations, the state of California once again sets precedent with Governor Newsom recently signing into law AB 116 which delays compliance with the new state in vitro fertilization (IVF) coverage mandate.

As a result, applicable large employers with benefits renewals between July 1, 2025, and December 1, 2025, will now be required to comply with the new infertility coverage mandate when their plans renew in **2026**.

While large, insured medical plans renewing January 1 through June 1 will be required to comply with the new mandate **as of their plan renewal in 2026**.

Employers in the small group market will not have to consider offering an infertility rider that mirrors coverage in the large group market, until their plan's renewal on or after January 1, 2026.

Employers seeking to learn more are advised to engage their benefits broker directly to navigate this new obligation.

Regulations Addressing AI & Employment Discrimination - **Eff October 1, 2025**

On June 27, 2025, the California Civil Rights Council approved several changes to the regulations issued under the California Fair Employment and Housing Act (FEHA), expressly targeting employment discrimination risks arising from AI and other automated decision systems (FEHA regulations). The new rules take effect October 1, 2025, and have the potential to significantly impact hiring and personnel processes across the state.

The FEHA prohibits discrimination, harassment, and retaliation in hiring and personnel decisions based on protected categories such as race, national origin, religion, age, disability, sex, gender, and sexual orientation. In amending the FEHA regulations, the [Civil Rights Council sought](#) to "increase[] clarity on how existing antidiscrimination laws apply to the use of artificial intelligence in employment decisions."

These changes fall into four general categories: (1) expanded definitions, (2) substantive provisions concerning pre-employment practices, (3) substantive provisions concerning discrimination, and (4) record-keeping requirements.

Practical Considerations for California Employers



While the true impact of the new FEHA regulations remains to be seen, employers would be well-advised to catalog where and how any ADS and other AI tools are used in hiring, screening, and employment decisions to help ensure that the practices conform with the new FEHA regulations.

Since employers may be at greater risk if they fail to take proactive steps to “avoid unlawful discrimination” through well-documented anti-bias testing or similar, proactive efforts, employers should consider implementing and documenting: (1) regular audits of AI and algorithmic processes for disparate impact (including reviewing third-party vendor tools for compliance); (2) responsive updates based on test results; and (3) detailed records of anti-bias efforts.

Employers should also consider requiring transparency and disclosure from vendors regarding their AI use, contractually delineating responsibility for such practices and compliance with the new regulations (including anti-bias testing), ensuring that the vendors are complying with record-keeping requirements, and, if possible, having the vendor indemnify the employer for the vendor’s use of an ADS or AI.

Companies should educate their own employees responsible for personnel management and related decisions on the new FEHA regulations and risks of ADS misuse, emphasize the importance of individualized assessments and documentation, and require human oversight and decision-making with respect to all personnel actions.

Finally, employers should also ensure that their document retention and preservation policies comply with the expanded recordkeeping requirements, both in terms of the data preserved and the length of time it is retained.

Recommendations extracted from the July 15, 2025 Greenberg Traurig article which can be found [HERE](#)

Upcoming Minimum Wage Increases – July 1, 2025

Beginning on July 1, 2025, several California localities are set to increase their minimum wage. Employers in these localities should review and update their policies and practices to comply with the scheduled increases. These localities and increases include the following:

Alameda, California	Minimum Wage Increased to \$17.46
Berkeley, California	Minimum Wage to \$19.18 & Living Wage
Emeryville, California	Minimum Wage Increased to \$19.90
Fremont, California	Minimum Wage Increased to \$17.75
Los Angeles County, California	Minimum Wage Increased to \$17.81
Los Angeles City, California	Minimum Wage Increased to \$17.87
Malibu, California	Multiple Changes
Milpitas, California	Minimum Wage to \$18.20 & Know Your Rights
Pasadena, California	Minimum Wage Increased to \$18.04
San Francisco, California	Minimum Wage Increased to \$19.18
Santa Monica, California	Minimum Wage Increased to \$17.81
West Hollywood Hotel, California	Hotel Minimum Wage to \$20.22
Chicago, Illinois	Fair Workweek & Minimum Wage to \$16.60
Cook County, Illinois	Wage \$16.60, Wage Theft, Paid Leave
Montgomery, Maryland	Wage: Mid Size \$16.00, Large \$17.65
New York City, New York	Paid Leave Notice
Burien, Washington	Minimum Wage Notice with levels
Everett, Washington	Wage: \$18.24, Large Employers \$20.24

The minimum wage in other California localities, such as Alameda County, is also set to increase on July 1, 2025



San Francisco Health Care Security Ordinance and Fair Chance Act Ordinances Require Annual Reporting Form – May 2, 2025

Employers covered by San Francisco's Health Care Security Ordinance (HCSO) and/or Fair Chance Ordinance (FCO) must submit their 2024 Annual Reporting Form to the [San Francisco Office of Labor Standards Enforcement \(OLSE\)](#) by **May 2, 2025**.

More information about these two ordinances is available at the [OLSE website](#) or see the resources provided at the end of this email.

San Francisco's HCSO Reporting Requirements

Under the HCSO, covered employers must invest in their employees' health care either by purchasing health insurance for their covered employees or by making payments to the city on behalf of covered employees that secure eligibility in a qualifying program.

Employers covered under the HCSO:

- Employ one or more workers within the geographic boundaries of the city and county of San Francisco;
- Are required to obtain a valid San Francisco business registration certificate; and
- Are a for-profit business with 20 or more people performing work, or a nonprofit organization with 50 or more people performing work. (This includes all persons working for the entity, regardless of whether they are located in San Francisco or outside of the city.)

Each year covered employers must report information to San Francisco regarding the number of individuals employed each quarter of the prior calendar year; the number of employees eligible for the HCSO in each quarter; the employer's total healthcare expenditure; and the variety of healthcare coverage options extended to employees.

San Francisco's FCO (Fair Chance Ordinance) Reporting Requirements

San Francisco's FCO imposes specific restrictions on how employers can obtain and use criminal background information, including a prohibition on the commonly used checkbox asking about criminal history on job applications.

Employers covered under the FCO:

- Are located or doing business in San Francisco; and
- Have five or more employees, regardless of whether those employees are all located in San Francisco.

Covered employers must annually disclose various information, including:

- The total number of employees hired to work within San Francisco for the prior calendar year;
- Whether background checks were performed on job applicants; and
- If individuals with conviction histories were hired.

Employers covered by either of these two San Francisco ordinances must complete and submit the Annual Reporting Form by May 2, 2025. Failure to submit it by the deadline may subject employers to a penalty of \$500 per quarter.

San Francisco's 2024 Form, annual reporting instructions and additional guidance can be found on the [Annual Reporting Form website](#).

Resources:

- [San Francisco Fair Chance Ordinance](#)
- [San Francisco Health Care Security Ordinance](#)
- [San Francisco Office of Labor Standards Enforcement](#)
- [Annual Reporting Portal for the Office of Labor Standards Enforcement](#)



State's Pay Data Report Filing Platform Opens **Feb 3, 2025 & Filing Due May 14**

California law mandates that private employers with one hundred or more employees, including those hired through labor contractors, must annually submit a pay data report to CRD, detailing employee pay, demographics, and other workforce data, including mean and median hourly wages broken down by race, ethnicity, and gender for each job category; failure to comply can result in penalties of up to \$100 per employee for the first offense and \$200 per employee for subsequent violations.

The California Civil Rights Department (CRD) recently updated its pay data filing website to show that the 2024 filing platform will open on February 3, 2025, and all filings are due by May 14, 2025. While employers await CRD to publish updated guidance for reporting and templates for the 2024 filings, there are several areas that continue to remain important for filers.

Reminders:

- California requires covered employers to file payroll employee reports for their own employees and requires covered employers to file labor contractor employee reports for their labor contractor employees.
- The California Civil Rights Department has taken legal action against employers that have failed to file payroll employee reports and encourages client employers to report labor contractors that fail to provide necessary information.

State Updates FAQs for Paid Sick Leave

The California Department of Industrial Relations has updated its [answers to frequently asked questions](#) (FAQs) for the [Healthy Workplaces, Healthy Family Act](#), the state's paid sick leave law. The most notable revisions address recent changes to how the paid sick leave law applies to agricultural employees and victims of crime and other violent acts. ETC released updated CA State Handbook Addendum as of January 2025.

California's Bird Flu State of Emergency Notice Requirements

On December 18, 2024, California Governor Gavin Newsom issued a statewide [emergency proclamation](#), related to the avian influenza A (H5N1), commonly known as the "bird flu." As noted in the proclamation, the virus is not limited to birds as it has become prevalent in dairy cows – and even in humans with 34 known cases since March 2024. This recent statewide emergency proclamation means employers will have to remember and comply with recent legislative changes.

Enacted in 2023, [AB 636](#) added new notice requirements pertaining to federal or California emergency or disaster declarations. Effective since January 1, 2024, employers must provide information to new hires through the Labor Code section 2810.5 *Notice to Employee* regarding the existence of a federal or California emergency or disaster declaration relating to the county or counties where the employee is employed.

This requirement is only triggered if the emergency or disaster declaration was issued within 30 days before the employee's first day of employment and if the emergency or disaster may affect their health and safety during their employment. So, the recent bird flu emergency proclamation will affect every county within California because it is statewide, but it will only have to be identified for employees hired between December 18, 2024, and January 17, 2025, and only if the nature of the employee's job duties may affect their health and safety because of the bird flu.

Lastly, as a reminder, the *Notice to Employee* is only provided to nonexempt employees. Ordinarily, you must provide this notice at hire and whenever any information on the form changes unless it is reflected on another writing within seven days of the change. However, for the purposes of emergency or disaster notifications, it is limited to only new hires. So, if another emergency is declared in the future that may impact the health and safety of existing employees, employers are not required to update this form.

Reminder: San Diego County Fair Chance Ordinance - **Oct 10, 2024**



San Diego County enacted the Fair Chance Ordinance for the [unincorporated areas of San Diego County](#), aimed at increasing employment opportunities for individuals with criminal histories.

This ordinance, which took effect October 10, **largely mirrors the existing** [California Fair Chance Act](#), while introducing some new requirements.

The San Diego County Fair Chance Ordinance enhances the California Fair Chance Act in several key ways. The following is not an exhaustive list, but employers who are located or do business in unincorporated areas of San Diego County should be aware of these obligations:

- The ordinance applies to any employer with five or more employees located in the unincorporated areas of San Diego County or doing business there, regardless of the employer's location.
- The ordinance protects employees and applicants whose primary job location averages two or more hours of work each week within an unincorporated area of the County, including remote work performed from an unincorporated area.
- Employers are prohibited from using language in a job advertisement or posting indicating that a person with a conviction or arrest will not be considered for employment.
- The required individualized assessment of the applicant's or employee's criminal history must be in writing, but the employer does not have to provide a copy of the written assessment.
- There are new notice requirements, and the preliminary and final determination notices must advise applicants and employees of their right to file a complaint with the California Civil Rights Department and the County of San Diego Office of Labor Standards and Enforcement.
- If a job offer is revoked, the applicant has a review and response period. During this period, the employer may not fill the position absent exigent circumstances.
- Starting on July 1, 2025, employers can face administrative penalties for non-compliance ranging from \$5,000 to \$20,000.

Employers should:

- **Review and update documents.** Ensure that job postings and application forms comply by removing any questions about conviction history, and review documents related to criminal background checks, including pre-adverse action letters and adverse action letters.
- **Train hiring managers.** Educate those involved in the hiring process about the ordinance's requirements and the importance of conducting individualized assessments.
- **Assess recordkeeping procedures.** Review recordkeeping procedures to ensure compliance, and maintain required records of all assessments and decisions.

The County has published the [ordinance](#) and provided additional guidance on its webpages

[San Diego County](#) Passes new Criminal Record Screening Regulations – Oct 10, 2024

Effective October 10, 2024, the latest local [ordinance](#) will take effect in the unincorporated areas of San Diego County. Employers that comply with California state law will *mostly* satisfy their obligations under the San Diego County ordinance. See attached resource for additional details.

State Healthcare Minimum Wage Increase – Oct 16, 2024

California's new statewide minimum wage and salary threshold for healthcare workers will take effect on October 16, 2024. Covering 20 different facility types, the health care worker minimum wage law implements different rates and scheduled rate increases depending on the facility type. Plus, covered health care employers must post a [supplemental minimum wage notice](#) in the workplace alongside the regular statewide minimum wage notice.

Employers who are unsure whether their facilities are covered should consult with legal counsel.

The supplemental minimum wage order can be found [here](#).

More information, including which healthcare facilities are covered and the minimum wage schedule by type of facility, can be found in the state's [FAQs](#).

The [Notification Pertaining To Health Care Minimum Wage Increases](#) was released October 1, 2024.

Upcoming Local Minimum Wage Ordinance Increases – Jan1, 2024



On January 1, the following jurisdictions are expected to increase their local minimum wage: Belmont, Burlingame, Cupertino, Daly City, East Palo Alto, El Cerrito, Foster City, Half Moon Bay, Hayward, Los Altos, Menlo Park, Mountain View, Novato, Oakland, Palo Alto, Petaluma, Redwood City, Richmond, San Carlos, San Diego, San Jose, San Mateo, Santa Clara, Santa Rosa, Sonoma, South San Francisco, Sunnyvale and West Hollywood. Some localities have already announced their new 2025 local minimum wage; for instance, Mountain View's will increase to \$19.20/hour (up from \$18.75/hour), Santa Clara's will increase to \$18.20/hour (up from \$17.75/hour) and West Hollywood's will increase to \$19.65/hour (up from \$19.08/hour).

State Expands Discrimination Protections – Jan 1, 2025

FEHA prohibits employers with **5 or more employees** from discriminating against employees based on their protected characteristics (e.g., race, sex, disability, religion and age).

California amended the FEHA ([CA S 1137](#)) to:

- [Broaden](#) the definition of “**race**” to include traits associated with race, including hair texture and protective hairstyles, including braids, locs and twists
- [Protect](#) employees from discrimination on the basis of their actual or perceived **combination of protected traits** (i.e., intersectionality).

AB 1815 – This revision to Crown Act amends the definition of “race” in the anti-discrimination provisions of the California Government Code as well as the definition of “protective hairstyles.”

Under the amendment, race is defined as “inclusive of traits associated with race, including but not limited to hair texture and protective hairstyles.” “Protective hairstyles” is revised to “include but are not limited to such hairstyles as braids, locs, and twists.”

Employer Takeaway: The word “historically” was removed from the definition of protective hairstyles because it was found to be vague and confusing. Employer utilizing this term in their Handbook should remove the term.

Driver's License Requirements ([CA S 1100](#))

California further [amended](#) the FEHA to prohibit employers with **5 or more employees** from requiring job candidates to have a **driver's license** in a job advertisement, posting, application or other materials unless it is reasonably believed:

- Driving will be a job function for the position; and
- Satisfying this function using an alternative form of transportation (e.g., rideshare, taxi, carpooling, bicycling, carpooling or walking) would not be comparably efficient or cost-effective for the employer.

Employers should remove any driver's license requirement from your job ads or applications, unless the exception applies.

Enforcement of Local Laws

Under an [amendment](#) to the FEHA, the act will **not** prohibit any city, county or other political subdivision of California from enforcing local laws prohibiting employment discrimination if local enforcement:

- Concerns an employment complaint filed with the California Civil Rights Department (CCRD);
- Takes place after the CCRD issued a right-to-sue notice;
- Begins before the expiration of the time to file a civil action; and
- Is pursuant to a local law that is at least as protective as the FEHA.

State Passes Freelance Worker Protections Act – Jan 1, 2025

California passed the [Freelance Worker Protection Act, SB 988](#), which imposes minimum requirements for freelance contracts. The law applies to any person or organization in California (other than the state, federal or foreign governments or individuals hiring services for themselves, their family or their homestead) that retains a freelance worker.

“**Freelance workers**” are defined as individuals who are hired or retained as individual contractors to provide professional services in exchange for \$250 or more, by itself or in the aggregate, over the immediately preceding 120 days.



Compensation and Contract Requirements

Under the act, the hiring party:

- Must pay freelance workers on or before the date compensation is due under their contract or, if not specified, no later than **30 days** after the completion of the worker's services; and
- May not require as a condition of timely payment that the freelance worker accept less compensation than agreed upon in the contract or that the freelance worker provide more goods or services than agreed upon in the contract once the freelance worker has started work under the contract.

The act also requires that all contracts are in writing, that the hiring party provide a signed physical or electronic copy of the written contract to the freelance contract, and that the hiring party retain a copy of the contract for at least **four years**. Written contracts for freelance services must contain the following:

- Name and mailing address of each party;
- Itemized list of services to be provided, the value of such services, and the rate and method of compensation;
- The date compensation will be paid or the mechanism through which the date will be determined; and
- The date by which the freelance worker must provide a list of services rendered to the hiring party to ensure timely payment of compensation.

Other Prohibited Conduct and Enforcement

Hiring parties may not discriminate against or take any adverse action against a freelance worker to penalize or deter the freelance worker from asserting their rights under the law. An aggrieved freelance worker or public prosecutor may bring a civil action seeking attorney fees and costs, injunctive relief and other damages deemed appropriate.

Paid Sick Leave Expansion – Jan 1, 2025

[SB 1105](#) revises California's paid sick leave, expressly allowing **agricultural employees** to use accrued paid sick leave to avoid smoke, heat or flooding conditions created by a local or state emergency. The bill states that the revision doesn't constitute a change in the law; rather, it's a clarification of, or "declaratory of," existing law to the extent that the sick days are necessary for an employee's preventive care.

State Amends Victim Leave for Employees – Jan 1, 2025

California has amended its Healthy Workplaces, Healthy Families Act law addressing employee leave for victims of domestic violence, sexual assault and other specified "qualifying acts of violence." The amendments list 10 of these reasons, which include purposes such as seeking restraining orders, counseling, safety planning, relocating, caring for a family member who is a victim and participating in legal proceedings.

The definition of **victim** will be broadened to include victims of any *qualifying act of violence* (QAOV). A QAOV means domestic violence, sexual assault, stalking and any act or pattern of conduct that:

- Causes bodily injury or death
- Involves a firearm or other dangerous weapon
- Involves force, or the threat of force, to cause injury or death

Additionally, employees will be protected from discrimination or retaliation based on a *family member's status* as a victim, and reasonable accommodations must be provided to an employee whose family member is a victim.

Unlike the existing law, the amendments also require that employers with 25 or more employees allow leave when employees' family members are victims. Employers with **25 or more employees** will be able to limit the leave an employee may take as follows:

- Twelve weeks for leave for victims of a qualifying act of violence;
- Five days for relocation or enrolling a child in a new school or child care facility when the family member was the victim of a nonfatal crime; and
- Ten days for leave when an employee's family member was the victim of a nonfatal crime.



Moreover, in addition to the existing circumstances in which employees may take paid safe time leave, employees may take safe time leave to do any of the following in relation to a qualifying act of violence:

- Enroll children in a new school or child care;
- Seek, obtain or assist a family member in seeking or obtaining legal services;
- Prepare for, participate in or attend any civil, administrative or criminal legal proceeding; and
- Seek, obtain or provide child care or care to a care-dependent adult if such care is necessary to ensure their safety.

Leave of Absence

AB 2499 ([CA A 2499](#)) permits employees who are victims of qualifying acts of violence to take paid sick leave under the state's Healthy Workplaces, Healthy Families Act for any of the expanded reasons for victim leave, including when an employee's family member is a victim. This applies to leave required of all employers and the additional leave requirements that apply only to employers with 25 or more employees, and the California Civil Rights Department (CRD) will have enforcement authority.

The changes take effect **Jan. 1, 2025**, and include, among other things, revised definitions, expanded reasons for leave, permitted limits on leave and enforcement by the state's Civil Rights Department.

The amendments were contained in [Assembly Bill \(AB\) 2499](#), enacted Sept. 29, 2024.

Lastly, employers also must provide employees with written notice of their rights to victim leave upon hire, annually, and any time an employee informs an employer that they or their family member is a victim. The Civil Rights Department is required to develop a notice for employer use by July 1, 2025. The notice requirement does not take effect until the department posts the model notice on its website.

ETC will be revising State Handbook Addendums and publishing updates early 2025 reflective of this change.

Jury & Witness Duty Leave Oversight & Enforcement Change– Jan 1, 2025

[AB 2499](#) also moves jury and witness duty leave from the Labor Code to the Fair Employment and Housing Act (FEHA) meaning the California Civil Rights Department (CRD) will also have enforcement authority over this leave entitlement.

State Passes Captive Audience Ban – Jan 1, 2025

California passed the [California Worker Freedom from Employer Intimidation Act, CA S 399](#), which prohibits all employers from discriminating against individuals who refuse to attend an employer-sponsored meeting or decline to participate in, receive or listen to employer communications, in each case the purpose of which is to communicate the employer's views on religious or political matters (including labor organization efforts).

However, under the law:

- Employers may communicate information that they are legally required to communicate (including requiring employee trainings to comply with the employer's legal obligations) or that is necessary for employees to perform their job;
- Higher education institutions may communicate information on coursework, symposia or academic programs;
- Public entities may communicate information related to one of its policies or any law or regulation such entity is responsible for administering;
- Religious entities may communicate information regarding relevant religious matters;
- Political organizations may communicate information regarding relevant political matters; and
- Nonprofit, tax-exempt training programs may require a student or instructor to attend classes, complete fieldwork or perform community service hours on relevant political or religious matters.

Employers who violate the law may be subject to civil penalties of \$500 per employee for each violation, as well as injunctive relief and damages.

Expanded Use of CA Paid Sick Leave – Jan 1, 2025

Under [CA A 2499](#), employees will be able to use paid sick leave for the following:

- Jury duty



- To appear in court under a court order as a witness in a judicial proceeding
- For any reason covered under the victim leave law when they or their family member is a victim of a QAOV

ETC's Updated State Handbook Addendums forthcoming.

Reminder: CA Employers Lose Option to Require Vacation Leave Before PFL – Jan 1, 2025

Effective Jan. 1, 2025, California employers will no longer be allowed to require their employees to take two weeks of accrued vacation leave before taking paid family leave under the state's [family temporary disability insurance program](#). The change was brought about by [Assembly Bill \(AB\) 2123](#), enacted Sept. 29, 2024.

Employer Takeaway: The above change allows the possibility of longer employee absences overall, as employees will be able to take their full amount of paid family leave without first using any accrued vacation time.

Workplace Safety Enacted Provisions Effective Jan 1, 2025

On January 1, 2025, certain provisions from last year's [SB 428](#) take effect; it expands the scope of the state's workplace violence temporary restraining order (TRO) laws. Currently, an employer can seek a TRO on behalf of an employee who has suffered unlawful violence or a credible threat of violence that was or could be carried out at the workplace. Beginning January 1, 2025, the employee's collective bargaining representative can also seek a TRO, not just the employer.

Also in January, workplace TROs may be sought when an employee suffers "harassment," which in this case means a "knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose." The conduct must be something that causes a "reasonable person to suffer substantial emotional distress and must actually cause substantial emotional distress."

CA Disability Insurance Updates – Jan 1, 2025

Effective January 1, 2025, the California State Disability Insurance (SDI) and Paid Family Leave (PFL) programs will undergo significant changes outlined in [CA S 1090](#).

Key highlights include:

- Advanced claims filing: Employees can initiate their claims process up to 30 days in advance of their anticipated first compensable day.
- Updated weekly benefit amounts: The weekly benefit amount for eligible claims will increase to approximately 70% to 90% of the employee's wages, up to the maximum amount.

Small Employer Mediation Program – Permanent – Jan 1, 2025

[AB 2011](#) passing now makes the CRD's Small Employer (5-19 Employees) Mediation Program permanent as it was scheduled to end this year. The program is expanded to cover reproductive loss leave disputes in addition to California Family Rights Act (CFRA) and bereavement leave disputes. Access the [CA Civil Rights Department's](#) webpage to learn more.

CA PAGA FAQ Published

The California Labor & Workforce Development Agency (LWDA) recently published [answers to frequently asked questions](#) (FAQs) on the state's Private Attorneys General Act (PAGA). In general, PAGA authorizes aggrieved employees to file lawsuits to recover civil penalties on behalf of themselves, other aggrieved employees and the state of California for Labor Code violations. The FAQs provide an overview of the law and guidance for employers on the new procedures introduced by recent amendments, which took effect on July 1, 2024, and significantly reformed the law.

What is PAGA?

PAGA allows employees to assist the state in enforcing labor laws by suing their employers on behalf of the state for violations of the Labor Code to recover civil penalties. Civil penalties assessed and collected under PAGA help deter unlawful conduct and encourage compliance with labor protections. These civil penalties are separate from and additional to other remedies, including damages, available for labor law violations through a separate non-PAGA lawsuit. Employees may bring other types of claims instead of, or in addition to, a PAGA claim, such as filing a lawsuit in court to recover unpaid wages, statutory damages and statutory penalties for certain Labor Code violations.



Additional information can be found at:

[Cal/OSHA](#) for health and safety violations

[Labor Commissioner's Office](#) (LCO) for wage theft and retaliation claims

AB 1034 (Extension of PAGA Exemption for Certain Collective Bargaining Agreements): AB 1034 extends an existing exemption from the Private Attorneys General Act ("PAGA") available to contractors that are signed to a Collective Bargaining Agreement ("CBA") until January 1, 2038. AB 1034 specifically provides an exemption from PAGA for unionized employees in the construction industry.

In order to qualify for the exemption, the CBA must:

1. Explicitly cover wages, hours of work, and working conditions.
2. Provide premium wage rates for all overtime hours worked.
3. Ensure employees receive a regular hourly pay rate of at least 30% more than the state minimum wage.
4. Contain a grievance and binding arbitration procedure to address labor code violations.

The law defines an employee in the construction industry as an "employee performing work associated with construction, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and other work."

State Transparency Requirements-Child Labor Practices–Jan 1, 2025

On September 22, 2024, California Gov. Gavin Newsom signed [Assembly Bill \(AB\) 3234](#) into law, which imposes transparency requirements for employers who audit their child labor practices. The bill will take effect on January 1, 2025. To learn more, access the September HR WIRE

State Law Imposes Transparency Requirements - Child Labor Practices – Jan 1 2025

On September 22, 2024, California Gov. Gavin Newsom signed [Assembly Bill \(AB\) 3234](#) into law, which imposes transparency requirements for employers who audit their child labor practices. The bill will take effect on January 1, 2025.

Under AB 3234, any employer who has voluntarily subjected itself to a "social compliance audit," in whole or in part, to determine if child labor is involved in the employer's operations or practices, must post a clear and conspicuous link on its website to a report detailing the findings of its audit. "Child labor" means any work performed by a person under 18 years old in violation of state or federal law. AB 3234 defines "social compliance audit" as a voluntary, nongovernmental inspection or assessment of an employer's operations or practices to evaluate whether the operations or practices are in compliance with state or federal labor laws, including wage-and-hour and health and safety regulations, including those regarding child labor.

Employer Takeaways

1. AB 3234 does not impose a substantive requirement to conduct social compliance audits relating to child labor or otherwise. However, if an employer voluntarily subjects itself to a partial or complete audit of child labor compliance, the law will require specific disclosures about the audit.
2. The public disclosure of the social compliance audit report may deter employers from voluntarily engaging in these audits. The U.S. Department of Labor's Wage and Hour Division (the Department) has enhanced its response to child labor violations following a 69% increase in findings of child labor violations between 2018 and 2022. As previously reported, the Department has strengthened federal efforts to protect minors from illegal employment situations, changing the penalty structure for violations, and enforcing the "hot goods" provision that would prohibit the shipping of goods that were produced in an establishment where oppressive child labor occurred. State agencies have also enhanced their response and increased enforcement activities to address potential child labor violations.
3. There are open questions about AB 3234 that will be crucial for compliance. AB 3234 does not specify a deadline for posting findings following a social compliance audit, how long the report must be posted, and



penalties for noncompliance. Further guidance will be required from the Division of Labor Standards Enforcement (DLSE) before enforcement activities ensue.

4. California employers will need to determine whether AB 3234 will apply to their operations or practices, which in many cases will involve a fact-intensive analysis. Employers will need to put a process in place to meet the compliance requirements of AB 3234. Companies also should consider how AB 3234 will impact their corporate social responsibility reporting and compliance with global forced labor laws. Multiple countries have recently implemented laws to combat forced labor in supply chains and require disclosure of potential exposure and measures taken to remediate forced labor or child labor. California employers should promptly work with legal counsel to assess whether their companies are subject to the AB 3234 disclosure requirements.

LA County – Fair Chance Ordinance – Eff Sept 3, 2024

As previously reported in the HR WIRE, employers in the unincorporated areas of Los Angeles County must comply with the Los Angeles County Fair Chance Ordinance (FCO), which places restrictions on criminal background screening beyond those required by California's Fair Chance Act (Fair Chance Act) as of September 3, 2024

The FCO covers employers with five or more employees in any location, and which "is located or doing business in the unincorporated areas of Los Angeles County." Covered employers and those covered employers with even one employee who works in the unincorporated areas of Los Angeles County should take heed of the FCO.

Additional information published by the California Civil Rights Department regarding the [Fair Chance Act can be found online](#) and Los Angeles County has [published some useful FAQs online](#).

San Francisco-Based Employees & Health Care Expenditures May Be Required

The San Francisco Health Care Security Ordinance (HCSO) requires employers to make certain health care expenditures on behalf of their San Francisco-based employees, even if the employer is not located in the City.

Employer Take-aways:

- Determine if organization is a Covered Employer
- Determine Employer Spending Requirements
- Maintain Records
- Post the [2024 HCSO Poster](#) (effective January 1, 2024) in all workplaces with covered employees.
- Submit an HCSO Annual Reporting Form to the OLSE by April 30th of each year.

Access the [San Francisco, Gov Health care Security Ordinance website](#) to learn more, access training, administrative Code & FAQs

Minimum Wage Increases – July 1

MINIMUM WAGE FOR HEALTHCARE WORKERS DELAYED - The new minimum wage rates and salary threshold will now take effect **July 1, 2024** (instead of June 1)

LOCAL MINIMUM WAGE INCREASES

On July 1, 2024, numerous cities and counties across California will increase their hourly minimum wage. The new rates are as follows:

Alameda: \$17

Berkeley: \$18.67

Emeryville: \$19.36

Fremont: \$17.30

Long Beach hotels with 100+ guest rooms: \$18.16

Los Angeles City: \$17.28

Los Angeles City hotels with 60+ guest rooms: \$20.32

Unincorporated Los Angeles County: \$17.27



Malibu: \$17.27
Milpitas: \$17.70
Pasadena: \$17.50
San Francisco: \$18.67
Santa Monica: \$17.27
Santa Monica hotels: \$20.32
West Hollywood hotels: \$19.61

Cal/OSHA Passes Indoor Heat Regulation

On June 20, 2024, the California Occupational Safety and Health Standards Board (Cal/OSHA) unanimously [adopted a new standard for Heat Illness Prevention in Indoor Places of Employment](#).

Employer Obligations

For workplaces subject to the regulations employers will be required to do some or all of the following depending on the heat index at the workplace:

- Provide drinking water. Where drinking water is not plumbed or otherwise continuously supplied, employers shall provide sufficient quantities at the start of the shift to provide one quart per employee per hour of drinking for the entire shift.
- Provide access to cool-down areas which are defined as an indoor or outdoor area that are blocked from direct sunlight and shielded from other high radiant heat sources.
- Assess temperature and heat index and evaluate risk factors of heat illness.
- Establish and maintain accurate records of either the temperature or heat index measurements.
- Use control measures to minimize the risk of heat illness including engineering controls, and administrative controls.
- Develop emergency response procedures and conduct employee training.

The Cal/OSHA Board has requested that the Office of Administrative Law (OAL) expedite its effective date. If this happens the standard will take effect in early **August 2024**. If the rule is not expedited, then it will take effect on **October 1, 2024**.

Cal/OSHA Issues Guidance & Model Workplace Violence Prevention Plan-**July 1**

As previously communicated, starting **July 1, 2024**, California employers across all industries must have a written Workplace Violence Prevention Plan ("WVPP") in place.

On March 18, 2024, California's Division of Occupational Safety and Health ("Cal/OSHA"), the agency responsible for enforcing the new law's requirements, announced the creation of its [Cal/OSHA Workplace Violence Prevention Guidance and Resources webpage](#). The webpage contains guidance and educational materials on the new law and workplace violence prevention, a [model WVPP](#), fact sheets, and other resources for employers and employees.

Employers are required to provide employees with training on the workplace violence plan when it's first established and annually thereafter. Additional training has to be provided when a new workplace violence hazard is identified or when changes are made to the plan, but this training can be limited to covering those specific topics.

Employer Takeaway: Although the provided model WVPP reflects the procedures required by section 6401.9, employer likely need to customize to their industry and worksite-specifics to ensure compliance.

CA Pay Data Reporting filing Deadline May 2024

California law requires private employers of 100 or more employees and/or 100 or more workers hired through labor contractors to annually report pay, demographic, and other workforce data to the Civil Rights Department (CRD).

Portal Opens: 2/2024

Filing Deadline: 5/8/24

The CRD has published “important announcements” regarding changes to this year’s reporting requirements, including the following (March 2024):

- **New data fields for remote workers:** Employers must now report information regarding the extent to which its workforce is remote during the “Snapshot Period” (i.e., a single pay period of the employer’s choice between October 1 and December 31, 2023). Specifically, the CRD added three new reporting fields: (1) the number of remote employees located within California; (2) the number of remote employees located outside of California; and (3) the number of employees that do not work remotely. For purposes of this reporting, the CRD defines a “remote worker” as “[a] payroll or labor contractor employee who is entirely remote, teleworking, or home-based, and has no expectation to regularly report in person to a physical establishment to perform work duties.” Therefore, hybrid employees are not considered “remote” for these purposes.
- **Race, ethnicity, sex for Labor Contractor Employee Reports:** Reporting “unknown” race/ethnicity or sex of a labor contractor employee is no longer permitted. According to the CRD, employee self-identification is the preferred method of identifying race/ethnicity and sex information; however, if an employee declines to state their sex or voluntarily provide their race/ethnicity, the employer should report using current employment records, other reliable records or information, or observer perception. When a reporting entity must rely on observer perception, the CRD encourages specifying this through clarifying remarks (e.g., “The race/ethnicity of [number] individuals in this grouping is being reported based on observer perception.”).
- **Filing deadline:** Reports are due by May 8, 2024. Unlike last year’s reporting period, it does not appear that the CRD will be accepting or granting any pay reporting submission deferral requests.

Employers are well-advised to use this year’s reporting templates and consult the updated User Guide available [here](#).

California employers also may wish to consult the [CRD’s Updated FAQs](#)

See also ETC HR’s February HR WIRE supplemental publication released Friday, February 9th for additional details and links to resources.

CA Supreme Court Clarifies Whether Employers Must Pay for Certain Pre-Shift Activities

In *Huerta v. CSI Electrical Contractors*, No. S275431 (March 25, 2024), the California Supreme Court issued an important decision relating to whether California employers must pay non-exempt employees for certain pre-shift activities, including time spent traveling on-premises before they begin productive work.

- First, the Court concluded that time spent by an employee waiting to undergo a vehicular search to enter the employer’s premises is compensable, when that search includes a visual inspection of the employee’s vehicle.
- Second, the Court held the time an employee spends traveling from an employer’s security check to the jobsite is not compensable as “hours worked” (but might be compensable as “employer-mandated travel” for employers subject to Wage Order No. 16), notwithstanding that the employee may be subject to certain rules and restrictions while driving.
- Third, the Court held that Labor Code section 512(e)—which exempts employees in certain occupations (including construction) from state meal period requirements if they work under a labor agreement that meets specific requirements—does not allow employers to pay less than minimum wage for “on-duty” meal periods.

Employer Takeaways:

- Employers who have implemented mandatory screening procedures before employees may enter or leave the premises should read this decision carefully, particularly if the process involves visual scanning or searches by security personnel as the **Court concluded**:
 - **that when an employee is required to spend time on the employer’s premises waiting to undergo an employer-mandated security procedure, that time is compensable.**
 - **that the time an employer prohibits an employee from leaving the employer’s premises, which prevents the employee from engaging in otherwise feasible personal activities, is considered “hours worked” and is therefore compensable.**



- Employers should also consider whether the restrictions, if any, they place on employees while on the premises fall into the category of rules furthering safe, lawful, and orderly conduct, which *Huerta* said were insufficient to make on-site travel compensable.
- Last, employers should review their policies and procedures regarding meal periods and ensure they do not place restrictions on their employees' ability to perform personal activities during that time.

California Fast Food Minimum Wage Exemptions

The California Department of Industrial Relations initially updated its [FAQs](#) to indicate that the April 1 minimum wage increase for fast food workers will also increase the *minimum salary threshold* for exempt executive, administrative, and professional (EAP) employees in fast food restaurants.

The new minimum salary for these employees will be \$83,200 per year. This increase is happening because under California law, EAP employees must earn a monthly salary of at least two times the *state minimum wage*, and the new \$20 rate will function as the *state minimum wage* for fast food restaurant employees.

Impacted employers have two options:

1. Ensure that employees in EAP positions are paid \$83,200 per year, or
2. Reclassify these employees as nonexempt and provide them with the rights and benefits that nonexempt employees are entitled to (overtime, breaks, lunches, and reporting time pay, to name a few)

Required Notice

Employers with covered employees are required to post a [supplement to the minimum wage order](#) in a place where employees will frequently see it.

Future Increases

The newly created Fast Food Council will have the authority to raise this minimum wage annually beginning January 1, 2025

Then with a mere seven days before the new minimum wage for employees of *fast food restaurants* is set to take effect in California, the legislature added new exemptions to the law. In addition to the original exemptions for certain bakeries and restaurants inside grocery stores, the law will **not** apply to restaurants that are any of the following:

- Located in an airport
- Connected to or operated in conjunction with a hotel, event center, theme park, museum, or gambling establishment
- Located in and operated in conjunction with a for-profit corporation's office building or campus, are primarily serving the corporation's employees or its affiliates, and are part of a concession or food service contract covering the building or campus
- Located on land owned by the government and operated pursuant to a concession or food service contract

Please note that each of these exemptions has a more detailed definition under the law, which you should make sure applies before considering your establishment exempt.

Due to the most recent change, the [state's FAQs](#) have not been updated yet, but we expect that they will be shortly.

LA County Fair Chance Ordinance Applicable to Unincorporated Areas

At the end of February, the Los Angeles County Board of Supervisors passed an ordinance adding several compliance requirements to the California Fair Chance Act requirements for employers considering the criminal history of applicants and employees in making employment decisions.

The Fair Chance Ordinance (FCO) applies to employers with **5 or more employees in unincorporated areas of Los Angeles County**.

The ordinance takes effect **March 28, 2024**, and is operative **September 3, 2024**.

The ordinance's requirements impacts:

- Job Postings
- Background Checks
- Preliminary Notice and Notice of Adverse Action
- Recordkeeping



Impacted employer should access the March 13th Jakson Lewis publication [HERE](#) or the LA County government website [HERE](#) to learn more.

Employers Must Notify California Employees of Void Non-Competes

Employer Takeaway: Deadline for employers to give their California employees a notice that any non-compete agreements are void was February 14, 2024. (Employers who fail to give the notice could face \$2,500 per violation plus sanctions.)

Learn More:

Employee non-compete agreements have long been unlawful in California. Effective this year, California broadened its already expansive prohibitions on employee non-compete agreements by adding new language to the Business & Profession Code 16600 via Senate Bill 699 and Assembly Bill 1076. Generally, any agreement which restrains someone "from engaging in a lawful profession, trade, or business" is against public policy and statutorily void. This explicitly includes non-competes, but courts have also extended the application to employee non-solicitation agreements. There are only narrow exceptions to this prohibition, where a noncompete relates to the sale of a business or dissolution of a partnership.

The recent California amendments require that employers notify any current employees and former employees who were employed on or after January 1, 2022, who signed a non-compete agreement, that the non-compete is void. The required notice must be in an individualized writing to the affected employee and delivered via mail and email. Importantly, violating the new statute by implementing non-compete agreements or failing to provide the required notice now supports a civil claim by employees, which could expose employers to liability and attorney fees.

New Workplace Violence Prevention Mandate

On September 30, 2023, California Governor Gavin Newsom signed SB 553 into law, creating a new layer to California employers' existing injury and illness prevention programs (IIPP). Under SB 553, employers are required to implement a workplace violence prevention plan (WVPP) no later than July 1, 2024, to provide training to employees regarding the WVPP and to keep records of workplace violence incidents. As of January 1, 2025, the law also expands employers' and employee representatives' rights to obtain restraining orders on behalf of employees affected by threats of workplace violence. To learn more, access a recent McDermott, Will & Emery Legal White Paper & Special Report [HERE](#)

CA Labor Notice Reminders

Updated § 2810.5 Notice

Effective January 1, 2024, employees must receive information about whether a federal or state emergency or disaster declaration applies to where they will work, issued within 30 days before their first day of work, that may affect their health and safety during employment. The notice must be provided upon hire and is part of a notice already required under California Labor Code § 2810.5. An updated, state-provided template will be available by March 1, 2024. The current notice is located [HERE](#). ([CA AB 636](#) was signed by the governor on October 8, 2023)

New Notice Requirement for New Hires

All employers need to provide new employees with notice about any federal or state emergency or disaster declaration that applies to any county where the employee will perform work and that may affect their health and safety on the job, if the declaration was issued in the 30 days prior to their start date. Employees generally excluded from having to receive this notice include those employed by the state (or any subdivision such as city or county), those covered by a collective bargaining agreement, and those exempt from overtime. The Department of Industrial Relations has already updated its [NOTICE TO EMPLOYEE](#) template.

California Updates Criminal History Regulations

California's Fair Employment and Housing Act (FEHA) regulations were updated as of October 1, 2023. The updated regulations govern how employers with five or more employees can use criminal history information when making employment decisions. Here are highlights of the changes:



- The definition of “applicant” will now include existing employees that have applied for or expressed interest in a different position with the employer or whose criminal histories are reviewed because of a change in ownership, management, policy, or practice.
- Employers can’t say in job postings, on applications, or in other hiring materials that individuals with criminal histories won’t be hired. This includes statements like “no felons” or “must have a clean record.”
- If an applicant voluntarily discloses their criminal history, employers can’t consider that information until after a conditional job offer is made (assuming the record can be considered at all).
- The fact that a licensing, regulatory, or government agency board has licensed an applicant—despite their criminal history—should be considered strong evidence that their criminal history is not grounds for disqualification from that type of job.
- Employers can, but don’t have to, use the [sample notices](#) provided by the California Civil Rights Department when communicating with applicants about employment decisions based on criminal history.

If you are required by law to conduct criminal background checks, or if you regularly use criminal history information in making employment decisions, we recommend that you review the changes in full on the state’s Civil Rights Department website, [HERE](#).

Colorado

Minimum Wage Increases – Jan 1, 2026

Minimum wage rates in Colorado will increase as follows:

Statewide (Proposed)

Colorado has proposed increasing its minimum wage to \$15.16 per hour and the minimum wage for tipped employees to \$12.14. The proposed minimum salary for exempt executive, administrative, or professional employees would increase to \$1,111.23 per week, or \$57,784 per year. The minimum annual salary for the highly compensated employee exemption would increase to \$130,014 per year. The minimum rate for exempt computer employees who are paid on an hourly basis would increase to \$34.85 per hour.

Denver

Denver’s city and county minimum wage will increase to \$19.29 per hour. The minimum base wage for tipped employees will increase to \$16.27 per hour.

Edgewater

Edgewater’s minimum wage will increase to \$18.17 per hour. The minimum base wage for tipped employees will increase to \$15.15 per hour.

Unincorporated Boulder County

Unincorporated Boulder County’s minimum wage is currently set to increase to \$16.82 per hour while the minimum base wage for tipped employees is set to increase to \$13.80 per hour. For a list of unincorporated areas where this minimum wage law applies, see Boulder County’s [website](#).

City of Boulder

The hourly minimum wage in the City of Boulder will increase to \$16.82. The minimum base wage for tipped employees will increase to \$13.80 per hour.

State Adds to FAMLI Leave – NICU Baby Stays -Jan 1, 2026

Colorado has amended its Paid Family and Medical Leave Insurance (FAMLI) Act to allow extra paid family and medical leave for parents with a child in a neonatal intensive care unit (NICU). The bill containing the amendment—[Senate Bill 25-144](#)—also lowered the 2026 FAMLI contribution rate.



NICU Leave

Currently, FAMLI limits eligible workers to the following amounts of combined paid family and medical leave:

- 12 weeks annually; plus
- 4 weeks for pregnancy or childbirth complications.

The amendment provides parents with a child receiving inpatient care in a NICU unit with 12 more weeks of leave, starting **Jan. 1, 2026**. Leave is available for the duration of the child's NICU stay.

ETC released the updated CO State Handbook Addendum inclusive of language addressing NICU Leave July 2025.

2026 FAMLI Premiums

FAMLI program is funded by evenly split contributions from employees and employers with at least 10 employees. The Division of Family and Medical Leave Insurance sets the contribution rate at a percentage of employee wages up to the Social Security wage cap. The rate cannot be more than 1.2% of employee wages.

Employers collect their employees' share through payroll deductions and remit the entire premium amount to the state at the end of each quarter through an online system.

Currently, the FAMLI contribution rate is 0.9% of employee wages; the amendment lowers that rate to 0.88% for the 2026 calendar year. Thereafter, the rate will be set by Sept. 1 for the following calendar year.

State Enacts Significant Wage & Hour Amendments – Eff Aug 6, 2025

On May 22, 2025, Colorado [enacted](#) House Bill 1001, which makes several important changes to the state's wage and hour laws. The amendments will:

- Modify the definition of employer;
- Prohibit payroll deductions beyond an employee's applicable minimum wage;
- Waive the penalty for an employer's failure to pay final wages if certain conditions are met;
- Revise attorney fee award requirements for employers;
- Update enforcement thresholds;
- Impose wage and hour violation reporting requirements on the Colorado Division of Labor Standards and Statistics (Division);
- Permit cities and counties to enact and enforce laws related to wage payments;
- Update penalties for employee misclassification; and
- Expand discrimination and retaliation protections.

State Clarifies Gender Expression– Eff May 16, 2025

As of May 16, 2025, Colorado has clarified that its definition of **gender expression** includes someone's chosen name and how they choose to be addressed. This means that deadnaming and misgendering—referring to someone by a former name or incorrect pronouns—are now clearly defined as **discriminatory**.

State Clarifies Job Protection Rules Under FAMLI Leave – Eff July 1, 2025

Employees taking continuous leave must be employed for at least 180 days before the leave begins to be entitled to job protection. For intermittent leave, job protection kicks in once employees reach their 180th day of employment—even if that happens during the leave period.

Biometric Information Requirements – Eff July 1, 2025



Employers will now be required to adopt a written policy and obtain consent from applicants and employees before collecting certain biometric information. That said, employers can make consent a condition of employment for some common uses of biometric data.

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- Modify the definition of employer;
- Prohibit payroll deductions beyond an employee's applicable minimum wage;
- Waive the penalty for an employer's failure to pay final wages if certain conditions are met;
- Revise attorney fee award requirements for employers;
- Update enforcement thresholds;
- Impose wage and hour violation reporting requirements on the Colorado Division of Labor Standards and Statistics (Division);
- Permit cities and counties to enact and enforce laws related to wage payments;
- Update penalties for employee misclassification; and
- Expand discrimination and retaliation protections.

See attached resource for additional related details.

State Enacts Comprehensive AI Legislation - Feb 1, 2025

Senate Bill (SB) 24-205 was the first state to pass comprehensive artificial intelligence (AI) regulation. The enacted regulations require businesses to use reasonable care to avoid discrimination when using AI for consequential decision-making (such as hiring, termination and other employment decisions).

State FAMLI Rules Include Employer Penalties



The Colorado Department of Labor and Employment recently issued [rules](#) addressing the coordination of benefits and reimbursement of advance payments under the state family and medical leave insurance program, “FAMLI.” The rules address the interplay between FAMLI benefits and other leave benefits, such as workers’ compensation, unemployment and employer-provided paid leave. Importantly, the rules establish a penalty structure for employer violations.

Employer Penalties:

- **\$50 Per Employee Per Day:** Violations concerning FAMLI and employer-paid leave.
- **\$500 Per Employee Per Day:** Violations of the requirement to continue health care benefits.
- **\$500 Per Violation:** Violations of the requirements for the coordination of FAMLI benefits, short-term disability benefits, long-term disability benefits, and time off solely for the purpose of paid family and medical leave.

Holiday Incentive Pay in Regular Rate of Pay Calculation

The Supreme Court of Colorado recently, [Hamilton v. Amazon.com Services LLC](#), ruled that holiday incentive pay (extra pay for hours worked on a company holiday) is a type of *shift differential* compensation, and therefore must be included in the calculation of an employee’s *regular rate of pay* (RROP) for overtime purposes.

This is different from federal law, which doesn’t require that extra compensation for work on holidays—if paid at a premium rate of at least 1.5x an employee’s usual rate of pay—be included in the RROP calculation.

Employment Applications, Expanded Protections for Race & Organ Donations – July 1

APPLICANT AGE-RELATED INQUIRIES PROHIBITED

Beginning July 1, 2024, employers will be prohibited from asking for an applicant’s age, birth date, or school attendance or graduation dates on an initial job application. (These limitations don’t apply to applications for jobs that will be performed entirely outside of Colorado, though inquiring as to any age-related data could potentially run afoul of Age Discrimination and EEO regulations)

Employers can ask applicants to *verify their compliance* with certain age requirements imposed by any of the following:

- A bona fide occupational qualification (BFOQ) related to public or occupational safety
- A federal law or regulation
- A state or local law or regulation based on a BFOQ

This means you can ask for a yes or no answer to a question like, “This job involves serving liquor and requires that you be at least 21 years old. Do you meet the age requirement?”

Additionally, employers can require that an applicant provide additional application materials (e.g., a resume) with their initial application, but only if they notify the applicant that they can redact information that identifies their age, birth date, or dates of schooling.

The Colorado Department of Labor and Employment has provided additional guidance on the law in [INFO #9B](#).

Employer Takeaway:

- Review employment applications and remove any questions prohibited by the law.
- Train those involved in the interview process not to ask questions that are likely to reveal the applicant’s age.

PROTECTIONS FOR RACE EXPANDED

The state has expanded the definition of *race* in its antidiscrimination statute to include [hair length](#). If you have dress or grooming policies that regulate hair length, consider whether they’re absolutely necessary for your organization. If you believe they are, consider consulting with an attorney to ensure they don’t run afoul of this law. This law was passed on June 3, 2024, and took effect immediately.

Employer Takeaway: If necessary, update Equal Employment Opportunity (EEO) policy, and any other policies that include protected classes, to include *hair length* in the definition of race (if you include this level of detail). ETC will be updating & communicating an updated EEO Policy to include hair length.



ORGAN DONORS PROTECTED

Employers are prohibited from discriminating or taking adverse action against employees who donate an organ. The new law doesn't specifically require that employers provide organ donation *leave*, but employees who donate an organ should be allowed to use any leaves that a similarly situated employee would be entitled to, such as a personal leave of absence. This law was passed on June 3, 2024, and took effect immediately.

Employer Takeaway: Update your Equal Employment Opportunity (EEO) policy, and any other policies that include protected classes, to include *organ donors*.

Updates to Pay Transparency Law

The state now requires employers to **notify employees about all job opportunities** (not including career development or progressions) in advance of filling them. Previously, notice was only required for promotional opportunities. The notification needs to include the rate or range of pay, a general description of other benefits or compensation, and the date the application window is expected to close.

For employers with no physical location in Colorado and 14 or fewer remote employees in the state, only remote job opportunities must be shared.

Employers also have new post-selection notice responsibilities.

Within 30 days of the selected candidate starting the job, employers must communicate the following information to the employees that will regularly work with that individual:

- The name of the person who filled the position
- The person's title
- The person's prior title with the employer, if applicable
- How and where employees can express interest in similar job opportunities

Finally, **all eligible employees must be notified of a position's requirements for career progression** when it's regular or automatic and based on time or other objective metrics; for example, when a junior stylist is automatically promoted to senior stylist after one year in the role. Employees must also be told the pay, benefits, full- or part-time status, duties, and access to advancement.

State AI Bill - Regulating Employment Decisions

On May 17, 2024, Colorado Governor Jared Polis signed Colorado [SB 24-205](#), making Colorado the first state to enact broad legislation regulating employers' use of AI to make "consequential decisions." The law, effective on **February 1, 2026**, will require businesses to use reasonable care to avoid discrimination when using AI for consequential decision-making (such as hiring, termination and other employment decisions). More to come as the effective date approaches.

Key Takeaways: Colorado is now the first state to enact such broad-based AI legislation but not likely the last. Employers using or considering using AI in their employment processes should evaluate their current AI risk management practices against the requirements of Colorado SB 205 and consider whether enhancements are necessary to align their current practices with these emerging expectations. ETC will continue to monitor this along with other AI-related regulations pertaining to employers and employment activities.

Overview: Colorado SB 24-205 broadly covers a wide range of AI applications, including employment, and incentivizes AI risk management practices that have long been the subject of discussion by regulators at the federal, state, and international level. For many applications, the bill requires impact assessments, consumer-facing disclosures, and notifications regarding Colorado residents' ability to opt-out. As a result, Colorado SB 205 could potentially chill the use of AI applications in various employment applications beyond sourcing, selection, and termination. The disclosure requirements in Colorado SB 205 apply broadly to Colorado consumers affected by AI-driven consequential decisions, encompassing both Colorado consumers in the traditional sense and Colorado residents applying for jobs.

Under Colorado SB 205, deployers of high-risk AI systems must provide "consumers," including job applicants, with information regarding their right to opt out of the processing of their personal data, consistent with Colorado's existing privacy law.



Additionally, the bill requires AI deployers using covered systems to notify Colorado consumers, including job applicants, that such a system is being used, disclose the purpose and nature of the decision, provide contact information for the deployer, and offer a plain-language description of the AI system.

Colorado SB 205 also requires AI deployers to conduct impact assessments for high-risk AI systems.

Colorado SB 205 includes additional specific items that an impact assessment must include. Among other things, it requires the impact assessment to include:

- A description of the categories of data the system processes as inputs and the outputs it produces;
- An overview of the categories of data used to customize the system, if applicable;
- The metrics used to evaluate the system's performance and known limitations; and
- A description of transparency measures taken, including measures to disclose the use of the system to consumers.

Connecticut

State Increases Minimum Wage – Eff Jan 1, 2026

On January 1, 2026, Connecticut's minimum wage will increase to \$16.94 per hour. The minimum base wage for most tipped hotel and restaurant service employees and tipped bartenders remains the same (\$6.38 and \$8.23 per hour, respectively).

Updated State Paid Sick Leave Regulations – Eff Jan 1, 2026

Beginning January 1, 2026, Connecticut's paid sick leave law will cover employers with 11 or more employees in the state.

State Expands Victim Protections – Eff Oct 1, 2025

[CT H 7236](#) was signed by the governor on July 8, 2025. Beginning October 1, 2025, Connecticut's antidiscrimination law, which applies to employers of all sizes, will cover victims of sexual assault and human trafficking and give them the same protections as victims of domestic violence. This means they'll be entitled to discrimination protections, reasonable victim leave, and workplace accommodations. ETC's State Handbook Addendum for CT is included in the Aug/Sept HR WIRE and includes updates to reflect this enactment.

State Issues FAQs on New Paid Sick Leave Requirements

The Connecticut Department of Labor has issued [answers to frequently asked questions](#) (FAQs) about the expanded paid sick leave (PSL) requirements that take effect in the state starting Jan. 1, 2025. The department has also [created](#) a workplace poster and written employee notice, which employers must provide by Jan. 1. Other PSL resources are also available on the department's website.

State Expands Family Violence Leave – Oct 2024

Beginning October 1, 2024, Connecticut has expanded its family violence leave law to include leave for sexual assault. The law applies to employers with three or more employees and allows employees who are victims to take up to 12 days of leave per calendar year for specified reasons, such as to seek counseling or to relocate.

Employer Takeaway: Update your domestic violence leave policy to include victims of sexual assault.

NOTE: ETC's CT State Handbook Addendum released 7/2024 included this update reference.

CT Passes Significant Expansion of Paid Sick Leave Benefits

On May 6, 2024, the Connecticut Senate passed legislation that, once signed into law, will significantly expand the State's paid sick leave statute, including broadening the statute's scope to cover almost all employers and workers in Connecticut. Governor Ned Lamont is expected to sign the bill into law shortly, with an effective date of January 1, 2025.



Currently, employers with 50 or more Connecticut employees are required to provide paid sick leave. The revised statute will lower this threshold in three phases between January 1, 2025, and January 1, 2027, until virtually all employers are covered by the law. The schedule is as follows:

- As of January 1, 2025: Employers with 25 or more employees in the State will be covered
- As of January 1, 2026: Employers with 11 or more employees in the State will be covered
- As of January 1, 2027: Employers with one or more employees in the State will be covered

The new legislation also expands the scope of employees who are entitled to paid sick leave. Starting January 1, 2025, virtually all employees will be entitled to paid sick leave, with some limited exceptions for seasonal and certain unionized workers.

Employees start to accrue paid sick leave on their first day of work but cannot use it until after 120 calendar days of employment. Leave must accrue at a minimum rate of 1 hour of leave for every 30 hours worked, up to a maximum of 40 hours of leave. Moreover, employers must allow employees to carry over up to 40 hours of accrued, unused paid sick leave. Alternatively, employers may provide employees with a bank of front-loaded sick time in lieu of any carryover.

Further, the new law expands the reasons for which an employee may take this type of leave.

More to come as the effective date draws closer including the release of any labor notices as well as changes to the Oregon State Handbook Addendum.

Delaware

Paid Family & Medical Leave Labor Notice – Distribution Deadline **Dec 2, 2025 & Benefits Effective **Jan 1, 2026****

Starting January 1, 2026, employees can begin filing claims through **Delaware's paid family and medical leave program (Paid Leave)**. Employers with 10 or more employees in the state are required to participate and provide employees with job-protected leave.

By December 2, 2025, employers are required to give the [Notice of Employee Rights](#) to all employees for a second time (this notice was *also* required in 2024). This needs to be provided to new employees upon hire, when an employee requests leave, or when an employer learns the employee might need leave.

There are additional employer-required notices as well as a workplace poster that the state will provide (hopefully soon) on its [Paid Leave website](#). There, you can also find FAQs, an overview of the program, and other resources for employers.

Action Items

- Provide notices to employees, as required.
- Display the poster when issued by the Delaware Department of Labor.
- ETC is publishing an updated DE State Handbook Addendum in Dec to address Paid FML

State Enacts Pay Transparency – Eff **Sept 26, 2027**

On Sept. 26, 2025, Delaware enacted a [law](#) (HB 105) requiring employers to include salary or wage ranges and benefits information in job postings. The law takes effect on **Sept. 26, 2027**, and applies to employers with 26 or more employees.

Employers must include the **hourly or salary compensation or compensation range** and a **general description of benefits and other compensation** in any external or internal job opportunities to be performed in the state or remotely elsewhere in the United States for a Delaware-based employer. If no job opportunity has been made available to the applicant, employers must provide such information prior to an offer or discussion of compensation or at any time upon the applicant's request.

More to come closer to the effective date.



State Adds Housing Status as a Protected Characteristic – Sept 26, 2024

The state's employment discrimination law, which applies to employers with four or more employees in the state, now includes *housing status* as a protected characteristic. *Housing status* means a person or family's overnight residence, regardless of permanence or habitability. [DE H 440](#) was enacted and effective on September 26, 2024.

Employers should add housing status to their Equal Employment Opportunity (EEO) policies at their earliest convenience and ensure that employment decisions are not being made on this basis.

Upcoming State's Family and Medical Leave Regulations Amended

On March 11, 2024, the following amendments to the Delaware Family and Medical Leave Act's regulations will take effect:

- Employees can't be required to use more than 75% of their earned, unused paid time off (PTO) before accessing their Paid Family and Medical Leave (PFML) benefits.
- Employees must be provided notice about their employer's PTO/PFML coordination policy.
- Employees may use PTO to supplement their wages (up to 100% of their average weekly wage) in an agreement with their employer.
- Employers must provide a written PMFL notice, provided by the state, to existing Delaware employees at least 30 days before the start of contributions on January 1, 2025. This notice must also be provided to employees upon hire, when they submit a leave request, or when the employer "acquires knowledge" that an employee's leave may qualify for PFML.
- All notices can be delivered by email.

Important dates are approaching for Delaware's paid family and medical leave program (Paid Leave), which applies to employers with 10 or more employees in the state.

The key implementation dates are as follows:

- **By December 1, 2024:** Employers need to set up an account with Delaware LaborFirst.
- **By December 2, 2024:** Employers must provide employees with a Notice of Employee Rights. After December 2, new employees should receive a notice upon hire. This can be provided electronically.
- **January 1, 2025:** Employers that are sharing the cost of the program with their employees must begin payroll deductions.
- **April 30, 2025:** The first wage and hour report, as well as the first contribution payment, is due to the state.
- **January 1, 2026:** Paid Leave benefits, which will provide job protection, will become available to employees.

More Information

The state has created a [website](#) with the Notice of Employee Rights, FAQs, an overview of the program, and other resources for employers.

(Delaware 1401 [final rule](#))

District of Columbia

Tipped Minimum Wage Increase & Changed Effective Date– Moved to Oct 1 & Tipped Min Wage June 30, 2025

The District of Columbia's tipped minimum wage increase that was scheduled to take effect on July 1 was delayed until at least October 1, 2025.

As a result, the tipped minimum wage remains at \$10 per hour. The bill that made this change took immediate effect on **June 30, 2025**.

Minimum Wage Increase – Eff July 1, 2025

On July 1, 2025, the District of Columbia minimum hourly wage will increase to \$17.95. The minimum base wage for tipped employees will increase to \$12 per hour.



NOTE: The D.C. Council passed emergency legislation to delay the *tipped* minimum wage increase until October 1, 2025. The bill was sent to the mayor, who is expected to sign it, but she hasn't put pen to paper yet. Until she does, employers should be prepared to implement the minimum base wage of \$12 per hour for tipped employees on July 1.

Universal Paid Leave Act's Paid Family Leave Notice – Feb 1, 2025

The District of Columbia's Office of Paid Family Leave has published the program's [2025 Notice to Employees](#) on its website. Employers must post the notice and provide a copy to covered employees by Feb. 1, 2025.

District of Columbia Paid Family Leave

The district's [Universal Paid Leave Act](#) requires virtually all employers to fund a paid family leave benefit for employees through employer-paid payroll taxes.

The program provides eligible employees with cash benefits for up to:

- Twelve weeks of parental bonding leave;
 - Twelve weeks of family leave to care for ill family members;
 - Twelve weeks of medical leave for an employee's own serious health condition; and
 - Two weeks of prenatal leave.
- Of note, this program does not provide job-protected leave.

Minimum Wage Increases – July 1

On July 1, 2024, the District of Columbia minimum hourly wage will increase to \$17.50. The minimum base wage for tipped employees will increase to \$10 per hour.

New District Voting Leave Regulations

Employer Take-away: Post the voting leave notice (which appears to be updated each year) at least 60 days before any scheduled election and provide notice to employees who don't have access to a physical poster.

Learn More: On May 10, 2024, D.C. published final regulations affecting the District's voting leave law that took effect immediately. The new regulations require employers to post the [Time Off to Vote notice](#) in a conspicuous location in the workplace at least 60 days before all scheduled elections (including special elections). For remote employees and those who don't have access to a physical poster, the notice should be provided by any reasonable means (such as email), and employers need to collect a signed acknowledgment of receipt. The regulations also clarify that employers can't require employees to provide more than seven days' notice to take voting leave unless an already existing policy requires more.

Upcoming DC Enacts New Wage Transparency Requirements Eff June 30, 2024

Employer Take-away:

- Ensure each job posting has a good faith estimate of the position's pay range
- Remove salary history questions from your job applications (or at least make them clearly optional)
- Train hiring managers on what they can and cannot ask about as well as what they must disclose
- Post the required notice

Learn More:

On Jan. 12, 2024, the District of Columbia (the District) enacted the [Wage Transparency Omnibus Amendment Act of 2023](#), amending the Wage Transparency Act of 2014. The amended law **requires pay and benefits disclosures, prohibits wage history inquiries and expands employee protections regarding compensation discussions**. The amended law takes effect on **June 30, 2024**, and applies to all nongovernmental employers with at least one employee in the District.

Required Pay and Benefits Disclosures

- Amended law **requires employers to include in all job postings the minimum and maximum salary or hourly pay that they believe, in good faith, they would pay for the position.**



- Pay ranges must be included in both external and internal postings, including those for internal promotions or transfer opportunities.
- Disclosure of health care benefits disclosed prior to each candidate's first interview

Prohibition on Wage History Inquiries

- Screening candidates based on their wage history; this includes requiring that their past compensation satisfy minimum or maximum criteria or requiring candidates to disclose their wage history as a condition of receiving an interview or offer of employment.
- Seeking a candidate's wage history from a former employer.

Expanded Protections for Compensation Discussions

The 2014 law prohibits employers from restricting employee discussions regarding monetary compensation or discharging, disciplining or otherwise retaliating against employees who engage in such discussions. The amended law expands the prohibition to include protections for discussions and inquiries regarding nonmonetary compensation (e.g., health care benefits).

Notice Requirements

- Post a notice of employee rights under the amended law in at least one conspicuous location where employees congregate. ETC will monitor & provide released workplace notices. D.C. has not yet made a template notice available, but employers that are eager to comply can print and post these in the workplace: [pay disclosure](#) and [salary history](#). Once a workplace Notice is released, ETC will alert employers via the HR WIRE publication.

([DC B 194](#) was signed by the mayor on January 1, 2024)

Florida

State Minimum Wage Increases – Eff Sept 30, 2025

Starting September 30, 2025, Florida's minimum wage will increase to \$14 per hour. The minimum base wage for tipped employees will increase to \$10.98 per hour.

State's Non-Compete Bill Becomes Law

Governor Ron DeSantis has allowed Florida's expansive noncompete bill to become law without his signature. The Florida Contracts Honoring Opportunity, Investment, Confidentiality, and Economic Growth (CHOICE) Act significantly expands the enforceability of noncompete agreements in Florida and became effective immediately.

The law addresses both garden leave agreements and noncompete agreements. With regard to noncompete agreements, the law expands the permissible duration of noncompete agreements from two years to a maximum of four years and contains no geographic scope limitation. Thus, noncompete agreements that comply with the CHOICE Act can last two years longer and can extend to employees who move out of Florida. The law's salary requirement means it will not apply to lower wage workers (employees or contractors who do not earn a salary, excluding benefits or discretionary compensation, greater than twice the annual mean wage of the county where the covered employer has its principal place of business, or the county where the employee resides if the covered employer's principal place of business is not in Florida), and it contains a specific exclusion for healthcare practitioners.

The CHOICE Act also permits a covered employer that believes an employee has violated a noncompete to apply for a preliminary injunction, which a court must grant. Such an injunction can only be dissolved if the employee or hiring employer proves by clear and convincing evidence based on nonconfidential information that: the employee will not perform similar work during the restricted period or use confidential information or interfere with customer relationships; the covered employer failed to pay the salary or benefits required under a covered garden leave agreement, or failed to provide consideration for a covered noncompete agreement; or the subsequent employer is not engaged in, or preparing to engage in, a similar business as the covered employer within the restricted geographic area.

Employer Takeaway

Agreements that do not meet the new law's requirements will still be analyzed and potentially enforceable under the existing statutory scheme set forth in Florida Statute §542.335. Employers should review their existing noncompete



agreements and consult with experienced employment law counsel to determine how to address current and future agreements.

Georgia

State Eliminates Subminimum Wage – Eff July 1, 2025

On July 1, 2025, Georgia will begin phasing out the subminimum wage for employees with disabilities.

Employers with a valid U.S. Department of Labor (DOL) certificate that allows this practice and was issued *on or before July 1, 2025*, can continue to pay employees with disabilities less than the minimum wage for a limited time, but they'll need to increase wages as follows:

- By July 1, 2026, they must pay at least half of the federal minimum wage
- By July 1, 2027, they must pay at least the federal minimum wage

Employers in Georgia that did not get a valid DOL certificate by July 1, 2025, won't be able to pay employees with disabilities less than the federal minimum

Hawaii

State Minimum Wage Increases – Jan 1, 2026

On January 1, 2026, Hawaii's minimum wage will increase to \$16 per hour. The minimum base wage for tipped employees will increase to \$14.75 per hour. Note that employers can *only* pay the base wage if the employee earns at least \$23 per hour, including their tips.

Captive Audience Ban – July 2, 2024

Hawaii enacted a [captive audience ban](#), protecting workers from retaliation for refusing to attend meetings or listen to their employer's speech on political matters. The new law, [HI S 2715](#), became effective on July 2, 2024.

The state's ban, which prohibits employers from taking adverse employment actions against employees who refuse to attend meetings or listen to communications regarding the employer's political views, took effect.

The new law prohibits employers from discharging, disciplining, or otherwise penalizing or threatening any adverse employment action against an employee because they decline to:

- Attend or participate in an employer-sponsored meeting, or any portion of a meeting, that communicates the employer's opinions about political matters; or
- Receive or listen to a communication from the employer that communicates the employer's opinions about political matters.

Under the new law, "political matters" means anything related to an attempt to influence a future vote made by individuals in an audience.

The new law does **not** prohibit an employer from conducting meetings or engaging in communications involving political matters as long as attendance by the employee is entirely voluntary.

Illinois

Expanded Protections Under The Right to Privacy in the Workplace Act – Eff Immediately, Dec 12th

On December 12, 2025, Governor Pritzker signed Senate Bill 2339 into law as Public Act 104-0455, bringing significant updates to Illinois' Right to Privacy in the Workplace Act. This legislation, effective immediately, redefines employer responsibilities around employment eligibility verification and enhances privacy protections for employees as the Bill significantly expands employee protections while increasing potential exposure for employers that fail to comply with its requirements.

Illinois **employers of all sizes** are now required to **notify an employee when they receive notice of an identification mismatch unrelated to immigration enforcement**.



The law provides that an employer enrolled in an Employment Eligibility Verification System, including the E-Verify program, must not impose work authorization verification or re-verification requirements greater than those required by the Employment Eligibility Verification System. The law prohibits employers from taking adverse action against an employee based only on receipt of a notice of a discrepancy (sometimes called a “no match” letter) between an employee’s individual taxpayer identification number or other identifying documents from any federal agency or other outside vendor not responsible for the enforcement of immigration law, such as the Social Security Administration, the Internal Revenue Service or an insurance company. The law also requires employers to provide certain notice to the employee upon receipt of such a notification.

Additional Details

The requirement applies to discrepancies on tax ID numbers or other identifying documents as reported by a federal agency like the IRS or the Social Security Administration, or an outside vendor such as an insurance company. Employers can’t take adverse action against an employee solely due to receipt of the notice.

The notification to the employee needs to include:

- that a discrepancy has been identified,
- the amount of time available to dispute or correct the information, and
- any action required by the employee.

The employer should notify the employee as soon as possible, but not more than 5 business days after receiving the notification or determining that the employee needs to respond, whichever is later, unless federal law requires a shorter deadline.

The employer should notify the employee in person and deliver the notification by hand, if possible; otherwise, it needs to be both mailed and emailed (if the employee’s email address is known). The employer must provide the original notification upon the employee’s request. This law was passed December 12, 2025, and took effect immediately.

Conflict between SB 2339 and existing DHS requirements presents no conflicts, at present.

State Passes Safety & Workplace Act – Eff **Aug 14, 2025**

On Aug. 14, 2025, Illinois Gov. Pritzker enacted the [Illinois Safety and Workplace Act](#) (Act) to authorize the Illinois Department of Labor (IDL) to establish rules that address occupational safety concerns, allowing the state to preserve and enhance worker protections in the event that federal OSHA standards are weakened or repealed

Employer Takeaway: Private employers in Illinois must continue to follow the original, more protective OSHA standards if federal rules are weakened, and stay current with both federal and state regulations to ensure ongoing compliance.

Changes to IL Employee Blood & Organ Donation Leave Act – Eff **Jan 1, 2026**

Employer Takeaway: Illinois HB 1616, signed into law on August 15, 2025, has made several important changes to the Employee Blood and Organ Donation Leave Act. There remains confusion relating to whether the leave must be paid. However, there is time and hope for the Illinois Department of Public Health (IDPH) to issue new regulatory guidance for the amended version of the regulation which the General Assembly website for Public Act 104-0193 states that the changes go into effect (as opposed to the amendment itself).

In 2023, Illinois amended the Employee Blood Donation Leave Act (820 ILCS 149 et seq.) to apply all full-time employees in Illinois, including those who work for private employers.

The Act applies to employers in the state with 51 or more employees. As implied in its title, the Act has two components, blood donation and organ donation. The blood donation component of the Act applies to full-time employees and requires employers to provide employees with up to one hour of leave for blood donations



every 56 days. “Full-time” is not specifically defined in terms of number of hours per week, but the Act does require a participating employee to have been employed for 6 or more months.

Regarding the organ donation component, the Act will now also apply to part-time employees. “Part-time” is also not defined, which would presumably mean that the requirement for providing leave for organ donation will apply to any employee who works any number of hours for an employer in the state with 51 or more employees.

Confusion remains in determining whether the employer must pay the employees for the 10 days of leave or must merely allow an employee to take the time off (and/or use any accrued paid leave).

- Section 3 of the Act states that the Act is “intended to provide time off with pay” to allow employees in the state to donate blood or an organ. But while the intent may be stated, the actual language of the Act does not actually accomplish that intent.
- Section 10 of the Act, both in the original (2023) and amended versions, is entitled “**Paid leave for blood donation; administration,**” with no reference to organ donation. Subsection (a) then states “*On request, a participating employee subject to this Act may be entitled to leave with pay to donate blood or an organ.*” Subsection (a) does not state that leave must be paid, only that an employee “may” be entitled to “leave with pay” for blood or organ donation. Subsection (b) in both versions then references the one hour of leave for blood donation up to every 56 days, still with no reference to the hour being paid. Subsection (b-5) in the original version states “*An employee may use up to 10 days of leave in any 12-month period to serve as an organ donor.*” Once again, the word “paid” does not appear, which would arguably imply that the leave need not be paid.
- Amended Subsection (b-5) adds part-time employees to those who can take leave to donate an organ. It also goes further and states: “*For a part-time employee using leave under this subsection, the employer shall calculate the daily average pay the part-time employee received during his or her previous 2 months of employment and compensate the part-time employee in the amount of the daily average pay for the leave days used.*” Nothing in this subsection references providing pay to full-time employees, and the original language remains the same, stating that an employee “may use up to 10 days of leave” without reference to the leave being paid or unpaid.

As it stands, the only references to pay in the substantive portion of the Act (i.e. not the title of a subsection and not in the introductory language about intent) is in the amended subsection (b-5) relating to how to calculate pay for part-time employees and in subsection (a) stating that an employee “may” be entitled to leave with pay. Therefore, employers are left to wonder whether they must provide paid leave to employees who donate an organ (on top of whatever other paid leave they provide), or whether they must merely allow the 10 days of leave and allow employees to use accrued paid leave and pay them accordingly.

Employers are left wondering whether they actually must pay employees who donate blood and organs on top of whatever other paid leave they provide. ETC with the December 2025 HR WIRE will also be publishing an updated IL State Handbook Addendum with revised policy language addressing regulatory changes.

Updated State Regulations: Neonatal Intensive Care Leave, Military, Funeral Honors and Paid Break Time for Nursing Mothers

New Illinois employment laws requires covered Illinois employers to provide unpaid leave for parents with a child in neonatal care, paid leave for military funeral honors, and paid break time for nursing mothers.

Nursing Mothers Breaktime – Eff Jan 1, 2026

The Nursing Mothers in the Workplace Act (the “Act”) requires employers to compensate nursing mothers for breaks taken to express breast milk. Under the [amended Act](#), as of January 1, 2026, employers now must



compensate nursing mothers for such break time at the mother's regular rate of compensation. Employers also may not require the employee to use paid leave during such break time or otherwise reduce the employee's compensation during the break time. ETC will continue to monitor any new employment obligations under Illinois law. ETC's released of the IL State Handbook Addendum for Dec 2025, includes language addressing the above.

Neonatal Intensive Care Leave – Eff June 1, 2026

Effective June 1, 2026, employers with at least sixteen employees are required to provide unpaid leave to employees to use while their child is a patient in a neonatal intensive care unit.

Under the [Family Neonatal Intensive Care Leave Act](#), employees of employers with 16 to 50 employees may use up to 10 days of leave, while employees of employers with at least 51 employees may use up to 20 days of leave.

This leave may be taken continuously or intermittently, though employers may require that leave be taken in at least two-hour increments. The bill requires employers to maintain an employee's health insurance benefits while he or she is on leave and to reinstate the employee to his or her former position or a substantially equivalent position once the leave ends. Employers are prohibited from taking any adverse action against an employee exercising his or her right to neonatal intensive care leave. Employers who violate the Act are subject to a civil penalty up to \$5,000 per employee affected.

State's Military Leave Law – Eff Aug 1, 2025

- Illinois employers with 51 or more employees are now required to provide **paid leave** to employees who participate in a **military funeral honors detail** ([Public Act 104-0078](#))
- Employees can take up to eight (8) hours per month—but not more than 40 hours per calendar year—to participate in these funeral activities.
- Employees can't be required to use other forms of leave like PTO.
- Employees eligible for this leave include current and retired servicemembers and those who typically participate in a military funeral honors detail, such as members of veterans service organizations.

ETC has released an updated IL State Handbook Addendum to address military funeral honors leave with the Aug/Sept HR WIRE.

Amended Wage Transparency Act – Eff Jan 1, 2026

Employer Takeaway: Employers with one or more employees (or non-employee consultants or contractors) in Illinois should consider reviewing the agreements they use with any such persons and consult legal counsel regarding the applicability of and compliance with the IWTA, including its most recent amendments.

New amendments (House Bill 3638) to the Illinois Workplace Transparency Act (IWTA) expand employee and consultant/contractor protections, including prohibitions on various “unilateral” contract provisions imposed as a condition of employment and enhanced requirements for valid “mutual” conditions and for confidentiality clauses in termination and settlement agreements.

Overview of the [Amended Act](#)

- broadens the definition of “unlawful employment practice” to encompass any practice made unlawful by any federal or Illinois state employment law, providing protections for employees participating in “concerted activity”
- adds restrictions on the use of certain “unilateral” conditions in employment agreements and expand the requirements for certain legally enforceable “mutual” conditions and agreements, as well as for certain confidentiality provisions in termination and settlement agreements
- introduces a new remedy of consequential damages that employees may pursue in addition to attorney's fees and costs



- continues to provide that protected “Employees” include “nonemployees” as defined in Section 2-102 of the Illinois Human Rights Act.”

To read more, access a recent article published August 27th by the Morgan Lewis Firm accessible [HERE](#) or the October 27th article published by Benesch Attorneys at Law [HERE](#)

State Amends Equal Pay Act to Separate It from Federal EEO-1 Reporting

Illinois has amended their Equal Pay Act to remove references to the EEO-1 Annual Employer Information Report. References to the EEO-1 report and the EEOC itself have been removed in 4 places. A “business” now only needs to be a private employer who has 100 or more employees in the State of Illinois. Reference to the business being required to also have filed an Annual Employer Information Report EEO-1 with the Equal Employment Opportunity Commission have been removed.

Although the job categories have remained the same, they are now given a specific definition within this law and are no longer formally based upon ‘the major job categories in the Employer Information Report EEO-1’. References to ‘skilled’, ‘semi-skilled’ and ‘unskilled’ labor have also been removed from the job category titles, as seen in the EPRC (equal pay registration certificate) [employee import template](#).

These changes will not lead to a difference in how the EPRC employee template is completed. Companies must submit their data and attest to the compliance requirements every two years.

New EPRC Filers

Employers with Illinois employees that have not previously obtained an EPRC certificate can look to the IDOL’s [frequently asked questions \(FAQs\)](#) guidance on the EPRC to determine if they are required to file a first-time EPRC application in 2025.

To read more, access the state’s updated Equal Pay Registration FAQs website [HERE](#) and the State’s provided Training Slides [HERE](#)

State Expands Equal Pay Registration Certificate Requirements

The state recently expanded its Equal Pay Registration Certification requirements to apply **to all private employers that have 100 or more employees in the state**. Previously, employers only had to file if they had 100 or more employees in the state and *also had to file a federal EEO-1 report*.

For more information on Equal Pay Registration Certification requirements, see the Illinois Department of Labor’s [updated FAQs](#).

Changes in State Insurance Law Extends Coverage to Certain Parents of Insured Individuals – Eff Jan 1, 2026

Although ETC does not regularly monitor insurance benefit enactments, a recent change in Illinois insurance law has drawn the attention of employers and many others due to the implications for employers and health insurance plans.

[Illinois House Bill 5258](#) amends the Illinois Insurance Code, the Health Maintenance Organization Act, and the Limited Health Service Organization Act requiring that insurers extend coverage to certain parents and stepparents of an insured individual when a plan provides dependent coverage. Insurance policies are, however, only required to extend coverage to parents and stepparents of an insured if the parent or stepparent resides within the plan’s service area *and* meets the IRS definition of a “[qualifying relative](#).” To be considered a qualifying relative there are several requirements that an individual must meet including a relationship test, an income test, and a support test. Coverage must only be extended if a parent or stepparent of the insured has gross income of less than \$5,050 annually (2025), is dependent on the insured for more than 50% of their support and is not the qualifying child of any other taxpayer.

Exempted Plans



This new coverage requirement does not apply to employers with insurance policies issued in other states that may have employees living and working in Illinois. And it does not apply to self-funded employers whose plans are exempt from state insurance laws. Specialized health care service plans, Medicare supplement insurance, hospital-only policies, accident-only policies and specified disease insurance policies are also exempt.

This new requirement applies to health insurance policies issued, amended, delivered, or renewed in Illinois on or after January 1, 2026.

Employers are advised to engage their benefits broker should there be questions or concerns related to this new state enactment.

Chicago Regulations - Eff July 1, 2025

Minimum Wage

For employers with four or more employees, the minimum hourly wage will increase to \$16.60. The minimum hourly base wage for tipped employees will increase to \$12.62.

Fair Workweek Threshold Increase

The threshold for coverage under the Fair Workweek Ordinance will increase to \$62,561.90 per year (if salaried) or \$32.60 per hour (if paid hourly). You can find more information about the ordinance, including which employers are covered, [here](#).

City of Chicago Updated Paid Sick Leave Payouts – July 1, 2025

Pursuant to [Chicago Municipal Code §§ 6-130-005 et seq.](#), employees who work at least 80 hours for an employer in Chicago within any 120-day period are eligible to accrue one hour of paid leave and one hour of paid sick leave for every 35 hours worked in Chicago, with accrual capped at 40 hours of paid leave and 40 hours of paid sick leave per 12-month period. Payout of paid sick leave is not required, but beginning July 1, 2025, employers with 51 or more employees must pay out all unused, accrued paid leave upon termination. (Employers with 101+ employees are already subject to this requirement.)

Cook County Revises Mandatory Paid Leave Rules

On April 10, 2025, the Cook County Board of Commissioners approved [further revisions](#) to the Commission on Human Rights' regulations implementing the county's paid leave ordinance. Many private employers will welcome these clarifications.

No Accrual of Paid Leave When Using Paid Leave: The paid leave ordinance requires statutory paid leave to accrue based on "hours worked." Originally, the rules had stated that employers were required to allow employees to accrue statutory paid leave when using statutory paid leave. The revised rules revert to the ordinance's "hours worked" standard.

Pay Date When Paid Leave Used: The ordinance is silent as to when statutory paid leave must be paid after it is used. The rules initially required payment by the payday for the pay period during which the employee used such leave. Now, however, payment need not be made until the payday for the pay period after the pay period during which the employee used leave.

Additional Benefits When Using Paid Leave: Previously, the rules required that, if an employer would compensate an employee for regular work with additional benefits (e.g., paid leave accrual, seniority or health benefits), the employer also had to offer those additional benefits to employees when they use statutory paid leave. As revised, the rules say that if an employer elects to offer additional benefits when employees use statutory paid leave (paid leave accrual,



seniority or health benefits), they must do so in the same manner and to the same extent as if the employee had performed regular work.

Use if Employee Suspended or Placed on Disciplinary Leave: At first, the rules said employers could not allow employees to use statutory paid leave when they were suspended or placed on leave for disciplinary reasons. As amended, employers cannot require employees to use statutory paid leave, but they can choose to allow employees to use it under these circumstances.

Next Steps: Employers should determine whether and how (if at all) the revised rules impact their paid leave policies and practices. If the revisions impact an employer's policy, and it intends to revise that policy, remember that the regulations also require that employers notify employees of changes to their policy in writing within five days of making the changes.

State Amends One Day in Seven Act to Prohibit Retaliation

Governor JB Pritzker signed SB 3180 into law prohibiting retaliation under the **One Day Rest in Seven Act**. The Act requires every employer, with certain exceptions, to provide employees with at least 24 consecutive hours of rest in every calendar week. The amendments provide that an employer is in violation of the Act if the employer discharges, takes adverse action against, or in any other matter discriminates against an employee because the employee has:

- Exercised a right guaranteed under the Act;
- Complained to the employer;
- Filed or plans to file a proceeding under or related to the Act; or
- Testified or is about to testify in an investigation or proceeding under the Act.

An employee who has been unlawfully retaliated against is entitled to recover all appropriate legal and equitable relief through a claim filed with the state department of labor. There is no private right of action for violations of the Act. The state labor department may assess penalties and fees and may also bring a civil action or administrative proceeding against an employer for violations of the Act.

The amendments are codified at chapter 820, sections 140/5.5 and 140/7 of the Illinois Compiled Statutes.

Employer Takeaway: The requirement to provide one day's rest in seven applies on a rolling basis such that covered employees cannot be required to work any seven consecutive days. This obligation can be an issue for employers with employees who are on standby, for employers with rotating shifts, and for other employment relationships, whether burdensome or not, which require continuous work by an employee. The exemptions from coverage are few. Overtime-exempt, white-collar employees are not covered by the Act. Illinois employers should review and revise policies and procedures on scheduling of employees' hours of work, and provide training to supervisors, Human Resources personnel, and any employees responsible for scheduling on the amended law's requirements.

Recent Court Decision – Nondiscretionary Performance Bonuses & Overtime Pay Calculations

Court Decision

The Illinois Supreme Court held that the Minimum Wage Law provision provides only one exemption: sums paid as gifts (including gifts "made at holidays" and gifts in the form of "other amounts that are not measured by or dependent on hours worked"). [Mercado v. S&C Elec. Co.](#), 2025 IL 129526 (2025).

Because the performance bonuses were not "gifts," the Court ruled those bonuses were not exempted under this provision, even though the bonuses were not dependent on hours worked.



The Court did not address a separate exclusion under Illinois law for discretionary bonuses “paid in recognition of services performed which are determined at the sole discretion of the employer.”

Takeaways

- The Illinois high court ruled in *Mercado* that state law requires that overtime calculations include performance bonuses even when the nondiscretionary bonuses, as in this case, were not dependent on hours worked.
- The Court noted the Illinois Minimum Wage Law is in line with the Fair Labor Standards Act on this issue and federal regulations support its holding.
- Determining whether to include bonuses in the regular rate for purposes of calculating overtime pay can be challenging and costly – Illinois employers face steep penalties if overtime is not properly calculated.

Implications

This decision has wide-ranging implications for employers in Illinois. Organizations should review all forms of compensation paid to their non-exempt employees to ensure that overtime pay is properly calculated. This is especially important given the Illinois Minimum Wage Law’s steep penalties for underpayment of wages. A prevailing plaintiff may recover triple the amount of the unpaid overtime wages plus five percent of the amount of any such underpayments for each month they remain unpaid, as well as attorneys’ fees and costs.

State Makes Equal Pay Registration Certificate Updates for 2025 – March 31

The Illinois Department of Labor (IDOL) is informing employers with [Equal Pay Registration Certificates](#) (EPRC) about changes that will impact upcoming filings.

Key updates include:

- A new, standardized [data template](#) with additional required fields:
 - Whether each position is subject to a collective bargaining agreement; and
 - Whether the position is paid hourly or salaried (and if hourly, the pay rate).
- A streamlined process for submitting Compliance Statements and other forms via a web-based submission, eliminating the need to download, complete, scan, and upload forms.

To accommodate these changes, IDOL is asking employers to delay submissions until after March 17, 2025, when the updated portal launches. After this date, only the new data template will be accepted.

Employers with EPRC **recertification deadlines between January 1, 2025, and March 30, 2025**, now have an extended deadline of **March 31, 2025**, with further extensions available upon request.

Access the State’s Equal Pay Website [HERE](#) to learn more and access additional State Resources.

Navigating New E-Verify and I-9 Compliance Requirements

Effective January 1, 2025, Illinois employers face updated regulations under Public Act 103-0879, altering the landscape of E-Verify and Form I-9 compliance.

NOTE: This law applies to companies located in Illinois and any employer with employees working in Illinois, regardless of where the company is headquartered. It does **not** extend to employees working outside of Illinois for an Illinois-based company.

The Illinois Department of Labor has clarified that the law does not prohibit private employers from using E-Verify. However, it does reaffirm current federal E-Verify requirements and impose several additional obligations to protect workers and ensure fair practices.

Key Compliance Updates:

Expanded Employee Protections:



- Employers must notify employees when their work eligibility or documentation is questioned.
- Employers are required to inform the entire workforce in case of a federal I-9 audit.

Prohibited Practices:

- E-Verify cannot be used to prescreen applicants.
- Employers cannot act on tentative non-confirmations without following federal procedures.
- Employers must follow specific state and federal guidelines if they receive tentative non-confirmation notifications to ensure fair treatment and due process for all their employees.

State Penalties for Non-Compliance:

- Violations of the law may lead to penalties, emphasizing the importance of strict adherence.

Contrary to some misconceptions, the law does not prevent private employers from using E-Verify. Rather, it regulates its use to uphold anti-discrimination policies, safeguard worker rights, and protect businesses. A number of the law's provisions mirror those that have always been part of the E-Verify program, but employers (especially those in Illinois or with employees working in Illinois) should review their practices to ensure compliance with the state and federal requirements.

State Law Banning Caregiver Employment Discrimination – Jan 1, 2025

- Illinois law (HB 2161 amending the Illinois Human Rights Act issued on 12.27.24) now protects workers from employment discrimination based on their family responsibilities.
- Under the law, which took effect Jan. 1, employers in the state can't make decisions about recruitment, hiring, promotion, and more based on a worker or candidate's real or perceived personal care of a qualifying family member according to the State's [news release](#)
- "Care" covers taking a family member to a doctor's appointment; meeting their basic needs, including medical, hygiene, nutritional or safety needs; providing emotional support for those with serious conditions who receive inpatient or home care; as well as other responsibilities

Applicable changes were incorporated into the January publication of updated State Handbook Addendums. Employers should review their Handbooks to ensure State Addendums are up-to-date.

State Whistle Blower Act – Jan 1, 2025

The Illinois Whistleblower Act ([HB 5561](#)) bars employers from taking an adverse employment action against an employee for disclosing information about an employer's activity that may violate the law to a government or law enforcement agency. Under the amended law, the scope of reportable conduct is broadened and expands prohibited retaliatory conduct to include an employee's threatened disclosure of the employer's activity. The amendments define or modify key terms, such as "employee," "adverse employment action" and "retaliatory action." Additionally, employees must now have a "good faith belief" that the employer's activity violates the law rather than "reasonable cause to believe" as previously required. The amended law also provides for additional remedies and authorizes the state attorney general to conduct investigations into alleged violations and initiate or intervene in civil actions. The amendments apply only to claims arising or complaints filed on or after Jan. 1, 2025.

State Issues FAQs for Upcoming Pay Transparency Law – Jan 1, 2025

On Nov. 22, 2024, the Illinois Department of Labor (IDOL) published [frequently asked questions \(FAQs\)](#) regarding Illinois' pay transparency [law](#) that goes into effect on Jan. 1, 2025. The FAQs provide clarification on certain provisions of the law but do not impose additional requirements. As a reminder, the new pay transparency law requires Illinois employers with 15 or more employees to include the pay scale and benefits in each job posting and notify current employees of promotional opportunities.

State Amended Right to Privacy in the Workplace Act – Jan 1, 2025



Public Act 103-0879, amending the Illinois Right to Privacy in the Workplace Act, late this summer. The act imposes new responsibilities on Illinois employers pertinent to E-Verify and workplace verification and also preempts local government requirements.

Some of the Act's amendment provisions are:

- Preempting the state, its political subdivisions, or any unit of local government from requiring an employer to use E-Verify
- Establishing new training obligations for employers and their authorized agents when enrolling in E-Verify
- Establishing new procedures that employers enrolled in E-Verify must follow when receiving Tentative Non-Confirmations (TNCs) or no-match letters from agencies such as the Social Security Administration
- Specific procedures to comply with state law when an inspecting entity (such as U.S. Immigration and Customs Enforcement) conducts an I-9 audit

Illinois Department of Labor issued a [fact sheet/FAQ](#)

Cook County Updates Paid Leave Guidance – Oct 24, 2024

Cook County has amended its Paid Leave rules.

While many of the amendments were made to further align with the Paid Leave Ordinance, notable substantive changes include, but aren't limited to, the following:

- Paid Leave must continue to accrue *during* an employee's use of Paid Leave
- Paid Leave must be paid out within the same pay period in which it was used
- Employers must post the county's Workplace Posting, which can be found on the Cook County Paid Leave Ordinance [website](#)

The county also released updated [Frequently Asked Questions](#) (FAQs).

The amendments to the Paid Leave Ordinance Interpretive and Procedural Rules were [approved](#) by the Cook County Board of Commissioners on October 24, 2024, and became effective immediately.

Banned Coerced Participation - Political or Religious Meetings - Jan 1, 2025

Illinois enacted the [Worker Freedom of Speech Act](#). This law protects workers from punishment or retaliation for refusing to attend meetings or listen to their employer's speech on religious or political matters, including speech regarding labor unions. The new law takes effect on **Jan. 1, 2025**.

Employer Takeaway: To ensure compliance with the new law, employers may consider reviewing formal and informal meeting and communication practices and preparing a notice of employee rights under the law. To learn more, read the September HR WIRE

Pay & Benefits in Job Postings – Jan 1, 2025

Employers with 15 or more employees will be required to post a pay scale in their job postings. The law applies to internal and external job postings for all positions that will be physically performed in the state (even partially), or outside the state if the employee will report to a supervisor or location in the state. Job postings must also include a general description of any benefits and other compensation offered for that position, including bonuses, stock options, and other incentives.

Employers can comply with the disclosure requirements by including a hyperlink to an easily accessible public web page that features the pay scale and benefits for the specific position. If a job posting wasn't available to an applicant, employers need to provide this information before any job offer or discussion of compensation occurs, or upon the applicant's request.

Promotion Opportunities

Employers must inform all current employees about promotion opportunities within 14 days after posting the job externally. This can be done through an announcement, posting, or by any other effective means.

Action Items

- Amend job postings to include the required information by January 1, 2025.



- Announce promotional opportunities to current employees within the 14-day time period.

State Enacts New Child Labor Laws – Jan 1, 2025

Illinois has enacted [Senate Bill 3646](#). Known as the Child Labor Law of 2024 (the “Act”), it repeals and replaces the state’s existing child labor laws. The Act was enacted to safeguard all working minors’ health, safety, welfare and access to education. It establishes standards for working conditions for children 15 years old and younger, including limiting work hours, outlining permitted jobs, requiring employment certificates, enhancing enforcement and updating penalties for violations. The Act becomes effective **Jan. 1, 2025**.

Employment Certificates

Under the Act, it’s unlawful for employers to employ minors without ensuring the minor holds a valid employment certificate issued by a school issuing officer. Employers seeking to employ a minor must provide the minor with a signed notice of intention to employ, setting forth the specific nature of the occupation and the exact hours of the day and number of hours per day and days per week the minor will be employed. The minor must submit this notice to their school’s issuing officer along with their employment certificate application. “**School issuing officer**” means a regional or district superintendent of schools or their duly authorized agent.

Supervision

The Act requires that all minors are supervised at all times by an adult of 21 years of age or older. To read/learn more, access the Illinois Child Labor Law webpages [HERE](#)

State Grants Employees the Right to Inspect Pay Stubs Upon Request – Jan 1, 2025

Aug. 9, 2024, Illinois amended the Illinois Wage Payment and Collection Act (IWPCA) to allow employees to inspect their pay stubs. The amendments also impose new recordkeeping requirements on employers, expand the information employers must provide employees in their pay stubs, and create penalties for employers that fail to furnish current and former employees with pay stubs. These amendments become effective **Jan. 1, 2025**.

State Expands Protected Classes, Statute of Limitations and Penalties for Discrimination Claims – Jan 1, 2025

Illinois has passed four amendments to its Human Rights Act (the Act). The amendments, which take effect on **Jan. 1, 2025**, prohibit employment discrimination on the basis of an individual’s reproductive health decisions and family responsibilities, extend the Act’s statute of limitations to two years and increase penalties for violations of the Act.

Employer Takeaways: Prior to the effective date, ETC will release a revised State Handbook Addendum to detail and reference the newly protected classes for the State. To learn more, read the September HR WIRE

Banned Coerced Participation - Political or Religious Meetings - Jan 1, 2025

Illinois enacted the [Worker Freedom of Speech Act](#). This law protects workers from punishment or retaliation for refusing to attend meetings or listen to their employer’s speech on religious or political matters, including speech regarding labor unions. The new law takes effect on **Jan. 1, 2025**.

Overview of the New Law

Under the new law, employers may not discharge, discipline or otherwise penalize, threaten to discharge, discipline, or otherwise penalize or take any adverse employment action against an employee:

- Because the employee declines to or as a means of requiring an employee to:
 - Attend or participate in employer-sponsored meetings that communicate the employer’s views on religious or political matters; or
 - Receive or participate in employer communications that communicate the employer’s views on religious or political matters; or
- Because the employee makes a good-faith report of a violation or suspected violation of the law.



Important Definitions

- **“Political matters”** are matters relating to political elections, political parties, proposals to change legislation, regulations or public policy, and the decision to join or support any political party or political, civic, community, fraternal or labor organization.
- **“Religious matters”** are matters relating to religious belief, affiliation or practice, or the decision to support or join any religious organization or association.

Notice Requirement

Within 30 days of the law’s effective date, employers must post a notice of employee rights under the law in a location where employee notices are customarily posted. As the applicable Notice is released, ETC will provide a link in the HR WIRE for employers.

Exceptions

The new law includes the following exceptions:

- Employers may offer voluntary meetings or other communications regarding religious or political matters;
- Employers may communicate the information that they are legally required to communicate or that is necessary for the employees to perform their jobs;
- Employers may require employees to attend trainings intended to foster a civil and collaborative workplace or reduce or prevent workplace harassment or discrimination;
- Institutions of higher education may conduct meetings or communicate with employees regarding coursework, symposia, research, publication or an academic program at the institution;
- State or local legislative or regulatory bodies may require employees to attend meetings or participate in communications regarding the employer’s proposals to change legislation, regulations or public policy;
- Political organizations, political party organizations, caucus organizations, candidates’ political organizations or not-for-profit tax-exempt organizations may require employees to attend meetings or participate in communications regarding the employer’s political tenets or purposes; and
- Religious organizations may require employees to attend meetings or participate in communications regarding the employer’s religious beliefs, practices or tenets.

Employer Takeaway: To ensure compliance with the new law, employers may consider reviewing formal and informal meeting and communication practices and preparing a notice of employee rights under the law.

State Expands Protected Classes, Statute of Limitations and Penalties for Discrimination Claims – Jan 1, 2025

Illinois has passed four amendments to its Human Rights Act (the Act). The amendments, which take effect on **Jan. 1, 2025**, prohibit employment discrimination on the basis of an individual’s reproductive health decisions and family responsibilities, extend the Act’s statute of limitations to two years and increase penalties for violations of the Act.

Expansion of Protected Classes

Under the Act, employers may not discipline, discharge, refuse to hire, segregate, harass or otherwise discriminate in the terms, privileges or conditions of employment on the basis of an individual’s protected class.

Effective Jan. 1, 2025, the list of protected classes will include an individual’s:

- **Reproductive health decisions**—Decisions on the use of contraception, fertility or sterilization care; assisted reproductive technologies; miscarriage management care; health care related to the continuation or termination of pregnancy; and prenatal, intranatal or postnatal care; and
- **Family responsibilities**—Actual or perceived provision of personal care to a family member (i.e., a child, stepchild, spouse, domestic partner, sibling, parent, parent-in-law, grandchild, grandparent or stepparent).

However, employers do not need to modify and may enforce workplace policies based on an individual’s family responsibilities (including leave, scheduling, productivity, attendance, absenteeism, timeliness, performance, referrals from a labor union hiring hall and benefits policies) if the policies comply with the Act.



Employer Takeaways: Prior to the effective date, ETC will release a revised State Handbook Addendum to detail and reference the newly protected classes for the State.

State Enacts New Child Labor Laws – Jan 1, 2025

Illinois has enacted [Senate Bill 3646](#). Known as the Child Labor Law of 2024 (the “Act”), it repeals and replaces the state’s existing child labor laws. The Act was enacted to safeguard all working minors’ health, safety, welfare and access to education. It establishes standards for working conditions for children 15 years old and younger, including limiting work hours, outlining permitted jobs, requiring employment certificates, enhancing enforcement and updating penalties for violations. The Act becomes effective **Jan. 1, 2025**.

Employment Certificates

Under the Act, it’s unlawful for employers to employ minors without ensuring the minor holds a valid employment certificate issued by a school issuing officer. Employers seeking to employ a minor must provide the minor with a signed notice of intention to employ, setting forth the specific nature of the occupation and the exact hours of the day and number of hours per day and days per week the minor will be employed. The minor must submit this notice to their school’s issuing officer along with their employment certificate application. **“School issuing officer”** means a regional or district superintendent of schools or their duly authorized agent.

Supervision

The Act requires that all minors are supervised at all times by an adult of 21 years of age or older.

Recordkeeping

Under the Act, employers must keep records that include the following for every minor employed:

- The minor’s name, date of birth and place of residence;
- Notice of intention to employ the minor; and
- The minor’s employment certificate.

Employers must keep these records on the premises where the minor works. Additionally, employers must keep a copy of the minor’s employment certificate on file for the period of the minor’s employment and three years after.

Posting Requirements

Employers must post a notice summarizing the Act’s requirements in a conspicuous place where minors work. The notice must include a list of prohibited occupations under the Act and the IDOL’s toll-free telephone number.

Enforcement and Penalties

The Act authorizes the IDOL to investigate alleged violations, conduct hearings, adjudicate complaints, and award penalties and injunctive relief. Employers that violate the Act may be subject to the following civil penalties:

- A penalty not exceeding \$60,000 if a minor dies while working for an employer that is found by the IDOL to have been employing the minor to work in violation of the Act;
- A penalty not exceeding \$30,000 if a minor receives an illness or injury that must be reported to the IDOL while working for an employer that is found by the IDOL to have been employing the minor to work in violation of the Act;
- A penalty not exceeding \$15,000 if an employer permits a minor to work in a restricted occupation;
- A penalty not exceeding \$500 if an employer fails to post or provide the required notice; and
- A penalty not exceeding \$10,000 if an employer commits any other violation of the Act.

All civil penalties are payable to the IDOL.

To read/learn more, access the Illinois Child Labor Law webpages [HERE](#)



State Grants Employees the Right to Inspect Pay Stubs Upon Request – Jan 1, 2025

Aug. 9, 2024, Illinois amended the Illinois Wage Payment and Collection Act (IWPCA) to allow employees to inspect their pay stubs. The amendments also impose new recordkeeping requirements on employers, expand the information employers must provide employees in their pay stubs, and create penalties for employers that fail to furnish current and former employees with pay stubs. These amendments become effective **Jan. 1, 2025**.

Right to Inspect Pay Stubs

The amendments grant current and former employees the right to inspect their pay stubs. Employers must provide current and former employees copies of their pay stubs upon request. Employers may require employees to submit their request in writing. Employers must provide current and former employees with a copy of the pay stub within 21 calendar days of the request. Employers are not required to grant a current or former employee's request for a copy of pay stubs more than twice in a 12-month period. Additionally, employers do not need to grant a former employee's request for a copy of pay stubs more than one year after the date of separation.

Employers must provide former employees with copies of the pay stubs in either a physical or electronic format, as chosen by the former employee, and include a communication that is transmitted through electronic mail, text message, computer system, or is otherwise sent or stored electronically and is capable of being downloaded or permanently retained by the former employee. If an employer provides electronic pay stubs in a manner that a former employee cannot access for at least a full year after separation, then the employer must, upon an employee's separation from employment, offer to provide the outgoing employee with a record of all their pay stubs from the year preceding the date of separation. The offer must be made to the outgoing employee by the end of the outgoing employee's final pay period. The employer must record in writing the date on which the offer was made to the outgoing employee and if and how the outgoing employee responded.

To request copies of their pay stubs, current or former employees must contact a person responsible for maintaining an employer's payroll, including:

- The HR department;
- The payroll department;
- The employee's supervisor or department manager; or
- An individual designated in the employer's written policy.

Pay Stub Requirements

The amendments to the IWPCA expand the definition of "pay stub" and, in so doing, require employers to provide each employee with a more detailed description of an employee's pay than previously required with each pay stub for each pay period. The amendments define "pay stub" as "an itemized statement or statements reflecting an employee's":

- Hours worked;
- Rate of pay;
- Overtime pay;
- Overtime hours worked;
- Gross wages earned;
- Deductions from an employee's wages;
- Total wages year to date; and
- Total deductions year to date.

Recordkeeping

Under the amendments to the IWPCA, employers must maintain a copy of an employee's pay stubs for a minimum of three years after the payment date. Employers must maintain a copy of an employee's pay stubs regardless of whether the employee's employment ends during the retention period or whether the pay stubs are provided electronically or in paper form.



Penalties

Employers that fail to provide a current or former employee with a pay stub as required under the amendments will be subject to a civil penalty of up to \$500 per violation payable to the Illinois Department of Labor. The department must consider the appropriateness of the penalty to the size of the employer's business and the gravity of the violation.

State Enacts AI Employment Law – Jan 1, 2026

On Aug. 9, 2024, Illinois enacted an [amendment](#) to the Human Rights Act that bans employers from using artificial intelligence (AI) that results in discrimination based on an employee's protected class. It also requires employers to notify employees that AI is being used. The law takes effect on **Jan. 1, 2026**.

The law prohibits employers from using AI that results in the discrimination of employees on the basis of protected classes (e.g., age, race, sex, religion or disability) with respect to recruitment; hiring; promotion; renewal of employment; selection for training or apprenticeship; discharge; discipline; tenure; and the terms, privileges or conditions of employment. The law also bans AI that uses an individual's ZIP code as a proxy for their protected class. Under the law, "**AI**" means a machine-based system that, for explicit or implicit objectives, infers from the input it receives how to generate outputs such as predictions, content, recommendations or decisions that can influence physical or virtual environments (including generative AI).

More to come closer to the effective date which is more than a year away.

State Amends Biometric Information Privacy Act – Aug 2024

On Aug. 2, 2024, Illinois enacted [Senate Bill \(SB\) 2979](#), which amends the Illinois Biometric Information Privacy Act (BIPA). SB 2979 limits potential statutory damage awards under BIPA and allows private entities to obtain consent from individuals for the collection, use, disclosure and storage of their biometric information through electronic signature. The amendments to BIPA went into effect immediately on Aug. 2, 2024.

SB 2979 effectively overrules the Illinois Supreme Court's decision in *Cothron v. White Castle System* by limiting the number of violations an individual can accumulate under BIPA. Under the act, as amended by SB 2979, multiple instances of the same violation involving the same biometric data from the same person and the same method of collection or dissemination will be treated as a single violation under the law.

Additionally, SB 2979 clarifies that BIPA's written consent release requirement may be met by an "electronic signature," now defined as "an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record."

Freelance Worker Protection Act – July 1, 2024

The Freelance Worker Protection Act provides protections for independent contractors who provide products or services in Illinois or who work for a hiring entity located in Illinois when the value of that work is equal to or greater than \$500 in a 120-day period.

Under the law, freelance **workers are entitled to** all of the following:

- A written contract (see templates below) that includes:
 - Name and contact information of both the hiring entity and freelance worker
 - Itemization of products and services
 - Rate and method compensation
 - Date of compensation due
 - Dates of services to be provided
- Full payment for the services by the due date in the contract, or if the due date is not specified, within 30 days of completing the services outlined in the contract
- Protection from retaliation and/or other negative action for exercising rights under the FWPA



Of note: The law only applies to contracts taking effect **after July 1, 2024**. Illinois provides See model contracts on their sate website [HERE](#) To learn more, access the State's [Frequently Asked Questions](#)

Minimum Wage Increases – July 1

LOCAL MINIMUM WAGE INCREASES

Chicago

For employers with four or more employees, the minimum hourly wage will increase to \$16.20. The minimum hourly base wage for tipped employees will increase to \$11.02—this is the first rate increase that's part of the gradual phase out of the tip credit, which will be eliminated in 2028.

Cook County

The minimum hourly wage will increase to \$14.05. The minimum hourly base wage for tipped employees will remain at \$8.40.

Chicago Fair Workweek Threshold Increase - July 1

CHICAGO FAIR WORKWEEK THRESHOLD INCREASE

The threshold for coverage under the Fair Workweek Ordinance will increase to \$61,149.35 per year (if salaried) or \$31.85 per hour (if paid hourly).

Chicago Start of New Paid Leave

On December 13, 2023, the Chicago City Council voted to delay the implementation of the city's new paid leave and paid sick and safe leave ordinance from Jan. 1, 2024, to July 1, 2024. The council also amended the ordinance in other ways, some of which are helpful to employers. The city's existing paid sick leave [ordinance](#) will remain in effect until the new one takes effect in July.

Chicago Paid Leave and Paid Sick and Safe Leave Ordinance

On Nov. 9, 2023, Chicago passed an ordinance that significantly expanded the city's paid sick leave requirement, mandating up to 40 hours of paid leave **and** 40 hours of paid sick and safe leave annually. This leave entitlement was to apply to employees who perform two hours of work in Chicago in any two-week period. All Chicago employers are covered by the ordinance, which was to take effect Jan. 1, 2024.

Amendments to the Ordinance

The amendments delay the start of the ordinance to July 1, 2024, when accrual begins. Furthermore, now leave will apply only to employees who have worked **80 hours** in Chicago in any **120-day period**. Other key changes include that:

- Employers must provide written paid time off policies to each covered employee in the employee's primary language;
- Until July 1, 2026, employees must wait 16 days (or a payroll period) before filing a civil action against employers for violating the ordinance; and
- All employers with employees who work in Chicago must comply with the recordkeeping requirements of the ordinance.

The ordinance requires payout of paid leave on separation of employment or transfer outside Chicago for all but small employers, but it provides a temporary limit (16 hours of paid leave) for medium-sized employers with 51-100 employees.

Recap of New Paid Leave & Paid Sick & Safe Leave Regulations:

Under the city's new Paid Leave and Paid Sick and Safe Leave Ordinance, which applies to employers of all sizes, employees will be entitled to accrue two separate types of leave: Paid Leave (PL) that can be used for any reason and Paid Sick and Safe Leave (PSL) that can be used for the reasons allowed by Chicago's previous paid sick leave law.

Accrual

Both types of leave begin to accrue on July 1, 2024 (or upon hire, if after that) at a rate of one hour for every 35 hours worked *in Chicago*. An employee who works 35 hours will have earned one hour of PL and one hour of PSL. Employers can cap *annual* accrual at 40 hours for each type of leave.



Carryover

Employees can carry over up to 16 hours of PL from one benefit year to the next unless their employer frontloads PL, in which case no PL needs to carry over. Employees can carry over up to 80 hours of PSL from one benefit year to the next, *regardless* of whether the employer frontloads.

Use

Employers can't cap use of either type of leave (except up to the amount that an employee has accrued). Employers can deny PL requests if the denial is based on a rationale covered by their written policy—they must also provide employees with a written explanation for the denial. Employers can impose a 30-day waiting period on use of PSL and a 90-day waiting period on use of PL from the time an employee begins to accrue.

Payout at Termination

Employers don't have to pay out any unused PSL but may need to pay out *accrued but unused* PL at termination, according to the following rules:

- Employers with 1–50 employees are exempt from PL payout
- Employers with 51–100 employees must pay out up to 16 hours of PL through June 30, 2025, and all unused, accrued PL after that date
- Employers with 101 or more employees must pay out all unused, accrued PL

Notice to Employees

Employees need to be given a notice about PL and PSL with their first applicable paycheck—in July 2024, or after hire, whichever comes first—and annually thereafter in July. The notice also needs to be posted in the workplace. The notice, made by the city, is available in six languages [here](#).

Employers also need to give employees written notification of their available PL and PSL, and their accrual rate, each time they're paid. Employers can meet this obligation in several ways, including by putting the information on a paystub or having it available online where employees can easily access it.

Documentation for Use of Leave

Employers can't require any documentation for use of PL. Employers can require that employees provide certification of their need for PSL if they're gone for *more* than three consecutive scheduled workdays. Note that the FAQs are a bit misleading in saying that an employer can ask for a note "after" an employee uses three days in a row—that's only true if the employee also uses PSL for all or part of a *fourth* scheduled workday in a row.

For More Information

- Paid Leave and Paid Sick Leave [Ordinance](#)
- Paid Leave and Paid Sick Leave [Rules](#)
- Paid Leave and Paid Sick Leave [FAQs](#)
- Business Affairs and Consumer Protection [public notices](#)

Illinois Issues Final Rules for Paid Leave for All Workers Act

The Illinois Department of Labor (IDOL) has published final rules for the state's Paid Leave for All Workers Act (the Act), which took effect January 1, 2024. The rules which took effect upon publication on April 30, 2024, address the implementation of varied aspects of the law and include helpful examples.

IL Equal Pay Act Registration Certification Filing Deadline March 23, 2024

State's Equal Pay Act Registration Certificate Filing Deadline Is March 23

Employer Takeaway: Employers who have not yet filed for an Illinois Equal Pay Act Registration Certificate (EPRC) must do so by March 23, 2024. This only applies to employers who have not filed for an EPRC in the past two years.

The Illinois Equal Pay Act requires employers with 100 or more employees in Illinois to obtain an Equal Pay Registration Certificate certifying the employer's compliance with laws prohibiting gender, race and other forms of discrimination based on wages.



In order to obtain the certificate, employers must file with the Illinois Department of Labor certain wage records, their most recent EEO-1 Report and an equal pay compliance statement signed by a corporate officer, legal counsel, or registered agent that certifies, among other things, statutory compliance with the Illinois Equal Pay Act and other state and federal equal opportunity laws, a lack of wage disparity between male, female and minority employees and that there are no sex-based personnel decisions.

Employers with less than 100 employees must file for an exemption by completing an [Exemption-Business form](#) and e-mail it to DOL.EPRC@illinois.gov. In order to determine whether an employer had less than 100 employees, the employer must have had less than 100 current employees on December 31, 2023. Employers who do not comply with the filing deadline or request an exemption are subject to a \$10,000 fine.

Independent Contractors Included in IL New Hire Reporting Requirements

Effective **January 1, 2024**, employers must include independent contractors in their [new hire reporting](#).

All employers must report new employees to their state's New Hire Directory within 20 days of their first day on the payroll with directory-specified information. ([2023 IL HB 3301](#))

Employers Liable for Gender-Related Violence

Effective **January 1, 2024**, employers are liable if their employees or agents commit gender-related violence at work that results in harm. ([2023 IL HB 1363](#))

However, employers will only be liable if they:

- Failed to supervise, train, or monitor the employee or agent who caused harm; or
- Failed to investigate complaints or reports (to a supervisor, manager, etc.) about the employee or agent who caused harm and didn't try to fix the problem.

Workplaces covered by these protections include:

- Employer premises, including any building, property, and parking area under the employer's control, or any location used by an employee while they're working; and
- Off-premises activities at employer-sponsored events when the employee isn't working.

Personnel Record Copies & Employer-Provided Notices' Changes

Effective **June 1, 2024**, the following Illinois laws will be amended as follows:

- The Illinois Personnel Record Review Act will allow employers to mail or email a copy of requested records and charge a fee limited to the actual cost of duplicating the requested record.
- The Illinois Minimum Wage Law, the Equal Pay Act (EPA), the Illinois Wage Payment and Collection Act, and the Child Labor Law will require employers to provide notices to remote employees via email or by posting on their website. . ([IL HB 3733](#))

Updated State EEO Data Filing Obligations

Additionally, businesses required to file an annual Employer Information Report (EEO-1) with the federal Equal Employment Opportunity Commission will **no longer be required** to submit it to the Illinois Director of Labor. However, they must continue to provide the director with a list of all employees during the past calendar year, separated by gender and race and ethnicity categories as reported in their EEO-1, along with other information as mandated by the [state's EPA](#). ([IL HB 3733](#))

Cook County Transportation Benefits Program Act

Effective **January 1, 2024**, the [Transportation Benefits Program Act](#) (TBPA) will require that Illinois employers in 38 designated transit zones with 50 or employees at an address within one mile of a fixed-route transit service, and within designated transit zones to provide transit benefits to certain covered employees. Covered employees under the TBPA are full-time employees of a covered employer who work an average of at least 35 hours per week for compensation.

Under the TBPA, covered employers must provide a pre-tax commuter benefit to covered employees. The benefit must allow employees to use pre-tax dollars for the purchase of a transit pass via payroll deduction, so that the



costs for transit pass purchases may be deducted from the employee's taxable compensation up to the maximum amount permitted by Internal Revenue Code Section 132(f).

Indiana

State Enacts Employee School Conference Leave – Eff July 1, 2025

Effective July 1, 2025, Indiana employers must allow their employees to take unpaid time off to attend certain school conferences concerning their children. The measure expires July 1, 2029

Under the new law, [SB 409](#), all employers will be prohibited from taking adverse employment action against employees because they were absent from work to attend:

- An attendance conference concerning their child, pursuant to state law addressing truancy prevention; or
- A case conference committee meeting concerning their child.

The law covers conferences and meetings for employees' biological, adopted, foster or stepchildren.

Employees must give employers at least five days' advance notice of the conference or meeting.

Employees must provide their employers with documentation of their attendance at the conference or meeting, and employers may request documentation of the meeting from the school. Additionally, the law requires employees to make a reasonable effort to schedule an electronic conference or meetings. ETC released an updated State Handbook Addendum for Indiana ahead of the effective date May 2025.

Iowa

State Requires Equal Treatment for Employees Who Adopt Children (Parity for Adoptive Parents) - Eff July 1, 2025

Effective July 1, 2025, Iowa employers must provide the same employment benefits and protections to adoptive parents as biological parents. The Iowa Legislature passed [House File 248](#), providing rights to employees who adopt children. Gov. Kim Reynolds signed the measure into law.

The new law requires employers to treat employees who adopt children up to 6 years of age in the same manner as employees who are biological parents of a newborn child with respect to:

- Employment policies;
- Benefits; and
- Protections.

The requirement for equal treatment applies during the first year of the child's adoption.

Employer-Takeaway: Employers should review their company policies to ensure none exist counter this new enactment.

Drug Testing Regulatory Updates – Eff July 1, 2025

The state has made two minor changes to its employment drug and alcohol testing laws.

First, employers will be required to specifically designate positions as "safety-sensitive" to be allowed to conduct certain testing. Currently, jobs are considered safety-sensitive if they meet specific criteria (e.g., if an accident on the job could result in death), but now these jobs will need to be clearly identified as such.



Second, if applicants, employees, or parents of minor employees who are subject to drug testing agree to it, employers can now provide any required policies and notifications (e.g., test results) in person—but still in writing—or electronically. Previously, certified mail was required.

Louisiana

Updated Meal Breaks for Minors – Aug 1, 2024

As of August 1, 2024, the law requiring meal breaks for minors will *only* apply to minors who are 15 years old or younger. [HB 156](#) was signed by the governor on June 11, 2024.

Maine

State Increases Minimum Wage – Eff Jan 1, 2026

Statewide: The minimum wage in Maine will increase to \$15.10 per hour. The minimum base wage for tipped employees will increase to \$7.55 per hour. Additionally, the minimum amount a tipped employee needs to earn through tips alone in order for the employer to take a tip credit will increase to \$191 per month.

The minimum salary for exempt executive, administrative, and professional employees will increase to \$871.16 per week, or \$45,300.32 per year.

Portland: The minimum wage in Portland will increase to \$16.75 per hour. The minimum base wage for tipped employees will increase to \$8.38 per hour.

Rockland: The minimum wage in Rockland for employers with 26 or more employees will increase to \$16 per hour, and the minimum base wage for tipped employees will increase to \$8 per hour. Smaller employers can pay the state minimum wage and tipped employee base wage.

Reporting Time Pay & Updates Earned Paid Leave – Eff Sept 24, 2025

Reporting Time Pay

Employers with 10 or more employees will need to pay nonexempt employees for reporting to work when the employer cancels or reduces the hours they were scheduled to work under [S 282](#). In these cases, the employee must be paid the lesser of:

- Two hours of pay at their regular hourly rate of pay
- The total pay for their scheduled shift

Exceptions

An employer doesn't have to pay if an employee's hours are canceled or shortened due to any of the following:

- Adverse weather conditions
- A natural disaster
- A civil emergency
- An employee's illness or medical condition
- An employee's workplace injury

Employers won't owe reporting time pay if they made a documented, good faith, and successful attempt to notify the employee not to report to work. If the employee arrives before the employer can reach them, the employer can assign any available duties the employee is physically able to perform—or, if no work is available, send them home and provide reporting time pay.

Employer Takeaway: Employers should review their scheduling and call-in procedures to ensure compliance with this new law.

Earned Paid Leave

Employers with 11 or more employees have to allow employees to accrue up to 40 hours of earned paid leave each benefit year, *no matter how many unused hours are carried over* under [H 19](#). Previously, carryover hours could count against the accrual limit in the new benefit year.



This update means employee leave balances may now exceed 40 hours—for example, 40 hours of accrued leave in the current benefit year plus 40 hours of carryover. However, current regulations still allow employers to cap usage at 40 hours per benefit year. It's unclear whether Maine's Department of Labor will update its regulations based on this change. ETC will be releasing an updated State Handbook Addendum to address this new state change.

State Issues Final Rules for Paid Family and Medical Leave – Jan 1, 2025

The Maine Department of Labor has published [final rules](#) for the state's new paid family and medical leave (PFML) program, following two rounds of public comment on proposed versions of the rules. Payroll withholding to fund the program begins Jan. 1, 2025, and paid leave benefits become available May 1, 2026.

Maine's Paid Family & Medical Leave (PFML) Launches – Jan 1, 2025

Maine's paid family and medical leave (PFML) program will launch next year. PFML is funded by employer and employee payroll contributions and is administered by the Maine Department of Labor (MDOL). It applies to all employers and employees. The MDOL will handle claims, approve or deny leave, and pay benefits to claimants. Payroll contributions begin January 1, 2025, and employees can start taking PFML on May 1, 2026. Employees will be entitled to up to 12 weeks of leave per year, and those who have been employed for 120 days or more are entitled to job protection.

Employer Notice

Employers must post a notice at each worksite in a conspicuous location in English and any other primary language spoken by three or more employees in that workplace.

They will also need to provide a written notice to each new employee within 30 days of their hire date.

The MDOL has provided a model notice in English [here](#).

More Information

The state has a [website](#) with FAQs, an overview of the program, model notices in additional languages, and other resources for employers

Maine Retirement Investment Trust Savings Program Registration Deadlines Approach

The Maine Retirement Investment Trust Savings Program (MERITSaves), signed into law on June 23, 2021, is a retirement savings program designed for most private sector employees who lack access to qualified employer-sponsored retirement plans.

Employers registered in Maine with 15 or more covered employees that do not provide an employer-sponsored retirement program must register with the state by April 30, 2024. Employers with 5–14 covered employees must register by **June 30, 2024**. Employers offering a qualified retirement program may certify exemption through MERITSaves.

Details about the program may be found on the [Maine Retirement Investment Trust Savings Program](#) page and on the MERITSaves [website](#).

Maryland

State Expands Deployment Leave – Eff Oct 1, 2025

- As of October 1, 2025, Maryland's family deployment leave law will cover deployment to the National Oceanic and Atmospheric Administration and Public Health Service under [S 279](#). (Currently, the law only covers the armed forces.)
- This law applies to employers with 50 or more employees



- The law also provides one (1) day of leave when a family member is leaving for or returning from active duty outside of the United States.

ETC is including an updated State Handbook Addendum with the Aug/Sept HR WIRE publication.

State's Mandatory Notice Requirements for Mass Layoffs or RIFs in Effect

According to the Maryland Department of Labor (MDOL), employers (50 or more employees that have operated an industrial, commercial, or business enterprise in the state for over a year) must now comply with the [Maryland Economic Stabilization Act](#), which requires employers to provide notice of **mass layoffs** or **reductions in force** (RIFs) in certain circumstances.

Although the MDOL had previously taken the position that it would not enforce the mandatory notice requirements of this law (commonly referred to as "the Maryland Mini-WARN Act") until it had issued final regulations, apparently this is no longer the case.

- Maryland's Mini-WARN Act requires employers with 50 or more employees to provide 60 days' notice of mass layoffs or reductions in force impacting the greater of at least 25 percent or fifteen employees.
- The notice provisions of Maryland's Mini-WARN Act were made mandatory in 2020, but the MDOL previously announced it would not enforce the law until it had issued final regulations.
- Although only proposed regulations have been issued, the MDOL is now taking the position that employers must comply with the act.

Employer Takeaway: Employers preparing for a mass layoff or a reduction in force that triggers the notice requirements of the Maryland Mini-WARN Act must be prepared to comply with those requirements immediately.

State's Amends Parental Leave Act – Eff Oct 1, 2025

Maryland has enacted [Senate Bill \(SB\) 785](#), amending the state's [Parental Leave Act](#) (PLA) to clarify that it does not apply to employers while they are covered by the federal Family and Medical Leave Act (FMLA). The amendment takes effect Oct. 1, 2025.

PLA and FMLA

The PLA applies to employers with 15-49 employees in the state during 20 or more calendar weeks in the current or preceding calendar year. It requires them to provide employees with up to six weeks of unpaid leave annually for the birth, adoption or foster placement of a child. Employers must also continue employees' health insurance while they are on leave.

The FMLA requires employers with 50 or more employees during 20 or more calendar weeks in the current or preceding calendar year to provide up to 12 weeks of unpaid leave annually for reasons including those covered by the PLA. Like the PLA, the FMLA also requires employers to continue health insurance benefits for employees on leave.

SB 785

The bill was introduced as a technical correction to rectify an unintended consequence of the PLA: that employers could be subject to both the PLA and the FMLA simultaneously in a calendar year during which they reach the 50- employee FMLA threshold, because they could have employed 15-49 employees for at least 20 weeks in that or the preceding year. Under the PLA as currently worded, the employer might, therefore, be required to provide leave to an employee under both that law and the FMLA.

To avoid this result, the bill amends the definition of "employer" under the PLA to exclude employers who are covered by the FMLA for the current calendar year. Eligible employees of these employers will be able to take qualifying leave under the FMLA but not the PLA.

ETC's State Handbook Addendum covers the policy requirements; however, an updated Addendum is being published to offer additional commentary for Employers.



Montgomery County Increases Minimum Wage – Eff July 1, 2025

On July 1, 2025, the minimum hourly wage in Montgomery County increased. More information can be found [here](#).

State Amends Parental Leave Act – Eff October 1, 2025

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To avoid this result, the bill amends the definition of "employer" under the PLA to exclude employers who are covered by the FMLA for the current calendar year. Eligible employees of these employers will be able to take qualifying leave under the FMLA but not the PLA.

Update: State's Family and Medical Leave Insurance Program – Jan 1, 2027 & Jan 2028

UPDATE: Amendments to the law have delayed the start of the program several times, so that employer and employee payroll contributions will now begin **Jan. 1, 2027**, with benefits becoming available at some point between that date and **Jan. 3, 2028**, as determined by the Maryland Secretary of Labor.

Sate's Family and Medical Leave Insurance Program – ~~July 1 2025 & July 1, 2026~~

The Maryland Family and Medical Leave Insurance (FAMLI) program, also known as the Time to Care Act, expands the leave rights available to employees in the state as it applies to employees and employers not covered by the FMLA. The FAMLI program allows eligible employees to take up to 12 or 24 weeks of job-protected, paid leave per year. The program will be funded by employer and employee payroll tax contributions. Although all employers in the state are required to provide leave, only employers with 15 or more employees company-wide must contribute to the program. Eligible employees are entitled to paid benefits from a state-operated fund based on their average weekly wages in relation to the state weekly wage.

The program implementation dates are:

- July 1, 2025, for employers with 15 or more employees to begin program contributions.
- July 1, 2026, for covered employees to begin submitting claims for benefits.

Covered Employers



All employers with at least one employee in Maryland are covered under this law. Only employers with 15 or more employees must contribute to the program.

Covered Employees

Covered employees are individuals performing services under employment located in Maryland, who have worked at least 680 hours over the four most recently completed calendar quarters for which quarterly reports have been required, immediately preceding the date on which leave is to begin. This applies to part-time and full-time employees.

Md. Lab. & Emp. Code Ann. §§ 8.3-101 – 8.3-1001; Md. State Fin. & Procure. § 6-226

Employment Law Updates Effective – Oct 1

The following apply to employers of all sizes, unless otherwise noted. To learn more, access the September HR WIRE

Pay and Benefit Transparency in Job Posting Requirements ([MD H 649](#))

Employers will be required to **post a wage range in all job postings for positions that will be physically performed, even in part, in Maryland.**

Employer Takeaway: Amend job postings to include the required pay information by October 1.

Written Pay Information Required ([MD H 385](#))

Two existing pay-related notice obligations for employers have been revised.

First, the **notice** that employers must give employees at the time of hire, **detailing their pay rate, scheduled paydays, and leave benefits**, will now need to **be in writing**.

Second, employers will be required to **provide the following written information on employees' pay stubs**, whether paper or electronic:

- Employer's business name (as it's registered with the state), address, and telephone number
- Date of payment and the beginning and end dates of the pay period the payment covers
- Employee's rate of pay
- Employee's gross and net pay earned during the pay period
- Name and amount of all deductions
- List of additional bases of pay (e.g., bonuses or commissions)
- For nonexempt employees, the number of hours they worked during the pay period
- For employees paid on a piece rate basis, the piece rates of pay and the number of pieces completed at each rate

The state will create a pay stub template for employers to use, though it hasn't said when it will be made available.

Employer Takeaway: Revise your new hire paperwork to include the new hire notice in *writing*. Ensure your pay stubs are modified to contain the specific written information required by the law.

Military Status Protected ([MD H 598](#))

The state has updated its **antidiscrimination law to include military status** as a protected category. *Military status* is defined as being a member of the uniformed services or a reserve component of the U.S. Armed Forces or **being a servicemember's dependent**.

Employer Takeaway: Update your Equal Employment Opportunity (EEO) policy, and any other policies that include protected classes, to include military status, if it's not included already.

Equal Pay Law Expanded ([MD H 602](#) & [MD H 1397](#))

The state's equal pay law has been expanded to include **additional protected characteristics**.



Employers will be **required to ensure equal pay and job opportunities between employees of different sexual orientations, races, and religious beliefs, unless there are bona fide reasons for a discrepancy**. Additionally, the law specifically prohibits offering less favorable job opportunities to those with disabilities. Previously, sex and gender identity were the only protected characteristics under the state's equal pay law.

Employer Takeaway: If you haven't reviewed employee compensation recently, now is the time. Assess the salaries of employees performing comparable work, those within the same business unit, or those engaged in similar operations or projects. This review should verify that salaries are consistent or that any pay disparities are justified by a legitimate system or factor.

Paid Family Leave Insurance Program (SB0485)

Maryland legislators passed a law modifying the timeline and deadlines for the Family and Medical Leave Insurance Program ("FAMLI"), a program first established in a [2022 bill](#). The start date for required contributions changed from October 1, 2024, to **July 1, 2025**. This means payroll deductions will begin on July 1, 2025, and employers will remit the first payment in October 2025

Maryland Adopts Heat Stress Standards – September 20, 2024

Maryland has adopted new heat stress standards that will take effect on September 30, 2024. They apply when employees are exposed to a heat index (aka the "feels like" temperature) of 80 degrees Fahrenheit or more during work, with some exceptions. The standards require that employers take steps to protect workers, such as establishing a written heat illness prevention and management plan and providing employees with water, access to shade, and heat stress training.

The [Heat Stress Standards](#) were published in the Maryland Register on September 20, 2024. To read the full text of the adopted standards, see the [Notice of Proposed Action 24-081-P](#).

State Prohibits Vaping in the Workplace – July 1, 2024

Effective July 1, 2024, Maryland's Clean Indoor Air Act will be expanded to prohibit vaping in almost all indoor places of employment. *Vaping* includes using any electronic smoking device or other device that allows the user to inhale aerosol tobacco, cannabis, or hemp. Employers are required to post a sign that says "NO SMOKING OR VAPING" near every **public** entrance to their place of employment. [MD H 238](#)

Montgomery County Increases Minimum Wage – July 1, 2024

On July 1, 2024, the minimum hourly wage in Montgomery County will increase as follows:

- 1–10 employees: \$15
- 11–50 employees: \$15.50
- 51 or more employees: \$17.15
- 11 or more employees and the employer is tax exempt under § 501(c)(3): \$15.50
- 11 or more employees and the employer provides *home health services* or *home or community-based services* (as defined by [federal law](#)) and receives at least 75% of gross revenues through Medicaid: \$15.50

The minimum base wage for tipped employees remains \$4 per hour.

More information can be found [here](#).

FAQs Released - State's Paid Family and Medical Leave Insurance Program

The Maryland Department of Labor's Division of Family and Medical Leave Insurance (FAMLI) has released a detailed [FAQ document](#) addressing 59 questions surrounding the new paid family and medical leave system that is (now) slated to launch in 2026.

Maryland Passes Pay Transparency Law

Maryland Governor Wes Moore signed a pay transparency requirement into law on April 25, 2024, requiring that all employers in Maryland include wage ranges and benefit information in all job postings as of **October 1, 2024**.



Employer take-away: In advance of the October 1 effective date, all employers that expect to hire employees who work at least part of their time in Maryland should review all public and internal-facing job postings and advertisements for the new roles to ensure these materials include the required wage and benefit information. Because existing Maryland law already requires employers to provide wage information to applicants upon request, employers may be able to leverage such information in updating postings, as needed.

The law, [Equal Pay for Equal Work – Wage Range Transparency](#), will go into effect on **October 1, 2024**. In passing this law, Maryland joins in on a rapidly growing trend as multiple other states have passed similar requirements over the last few years, including California, Colorado, Connecticut, Hawaii, Nevada, New York, Rhode Island, and Washington. The new Maryland requirements are in addition to the state's existing pay equity legislation, including [a salary history ban and a pay range upon request requirement](#), both passed in 2020.

Coverage Under the Law

The law applies to all employers (or persons who act directly or indirectly with an employee on behalf of another employer) that engage "in a business, industry, profession, trade, or other enterprise in" Maryland. There is no minimum employee requirement for coverage under this law.

The law also states that the disclosure requirements only pertain to positions that "will be physically performed, at least in part," in Maryland. The legislature has not defined "at least in part" and thus it is unclear whether the law applies to positions that are based in another state but performed remotely in Maryland on occasion.

The law also applies to any solicitation intended to recruit applicants for a specific position, which includes indirect recruitment through a third party. For example, if an employer utilizes a recruiting agency, the agency would also need to include the necessary disclosures in its advertisements.

Massachusetts

State Issues Rate and PFML Notice + Workplace Poster Eff – **Dec 2, 2025 and Jan 1, 2026**

The Massachusetts Department of Family and Medical Leave has [issued](#) updated rate sheets, notices and a workplace poster for employer use in 2026. Failure to comply with the law's notice requirements can result in employer fines.

Contribution rates and benefit amounts for PFML are updated annually, and the law requires **employers to provide current employees** with information on the new contribution rate 30 days before it changes on Jan. 1, 2026, which is **Dec. 2, 2025**.

The notice of the rate may be provided electronically and does not require an updated signature. Different rate sheets are available for employers with 25 or more covered employees and for smaller employers.

Employee Notices

By statute, employers must provide each new hire with a [written notice](#) about PFML **within 30 days of "the beginning date of the employee's employment."** The employer must obtain the employee's **written acknowledgment of receipt** or have the employee sign a statement that they refused to sign the acknowledgment. The notice must be available in English and each language that is the primary language of five or more individuals in the employer's workforce, if these translations are available from the department.

The department publishes separate notices for employers with 25 or more covered individuals, fewer than 25 covered individuals, 25 or more self-employed individuals, and **fewer than 25 self-employed individuals**.

Workplace Poster

Employers must also display a [poster](#) explaining PFML benefits in a location in the workplace where it can be easily read. The poster must be available in English and each language that is the primary language of at least five individuals in the workforce if these translations are available from the department.



Upcoming Annual Wage Data Reporting Obligations – Eff Feb 1, 2026

The Act has also required, since Feb. 1, 2025, that employers with 100 or more employees submit an annual aggregate wage data report, including workforce demographic and pay data categorized by race, ethnicity, sex and job category. These are not new reports but rather copies of the same required data as the U.S. Equal Employment Opportunity Commission (EEOC) Employer Information Report, commonly known as an EEO-1 report. Employers who file EEO-3 or EEO-5 reports must submit these reports every other year beginning on Feb. 1, 2025. Employers who file EEO-4 reports must submit these reports every other year beginning on Feb. 1, 2026. As with the Act's employee threshold for pay disclosures, the 100-employee threshold for pay reporting includes all full-time, part-time, seasonal, temporary and remote employees with a primary place of work in Massachusetts.

Health Insurance Responsibility Disclosure (HIRD) Reporting – Due Dec 15

ETC sent out separate compliance reminders back on October 31st; however, as a reminder:

The Health Insurance Responsibility Disclosure (HIRD) form submission is a **state reporting requirement** in Massachusetts. The HIRD form collects employer-level information about your employer-sponsored insurance (ESI) offerings. The HIRD reporting is administered by MassHealth and the Department of Revenue (DOR) through the **MassTaxConnect (MTC) web portal**.

The HIRD form assists MassHealth in identifying its members with access to qualifying ESI who may be eligible for the MassHealth Premium Assistance Program and must be completed by December 15 of the reporting year.

State law requires **every employer with 6 or more employees in the state of Massachusetts** to **annually submit a HIRD form**. If you are an in-state or out-of-state employer who had six or more employees within Massachusetts during the past 12 months, you are required to complete the HIRD form.

State's Pay Transparency Regulations: Pay Ranges in Job Postings and Upon Request – Eff Oct 29, 2025

Starting October 29, 2025, employers with 25 or more employees in the state will have new pay transparency obligations, outlined below.

Pay Ranges in Job Ads

Employers will need to include a pay range in all job postings. The law applies to internal and external postings, as well as to postings from third parties recruiting on an employer's behalf. The pay range provided should be the amount the employer reasonably intends to pay for the position when filled—*not* the entire potential pay range for the position from entry level through retirement. Generally, the applicable pay range will be the amount budgeted for the position.

Promotions and Transfers

Employees who are offered promotions or transfers to new positions with different job responsibilities also need to be provided with the pay range for the new role.

Current Employees

Current employees will be entitled to know the pay range for their position, or a position they apply for, upon request. As a result, employers should have a plan for providing this information. For those that don't have a well-established compensation structure, the plan will likely involve directing these requests to Human Resources. Ideally, the ranges provided will be reasonable, documented, and won't raise any red flags with respect to pay equity.

The [guidance](#) from the Massachusetts Attorney General's (AG) Office provides further clarification on several key aspects of the Act, including the following

- To determine if they reach the 25-employee threshold for application of the Act, employers must count



all full-time, part-time, seasonal and temporary employees with a primary place of work in Massachusetts. Remote employees who work out of state may count toward this threshold if their primary place of work is considered to be Massachusetts.

- The definition of "primary place of work" under the Act is the same definition as adopted in the AG's [Earned Sick Time FAQs](#). Under those FAQs, employees with a primary place of work in Massachusetts include employees who:
 - spend work hours traveling outside Massachusetts for work but return regularly to a Massachusetts base of operations
 - telecommute through an arrangement with their employer to a Massachusetts worksite
 - spend the plurality of their working time in Massachusetts over the course of one year
- The Act applies to all job postings where the position's primary place of work is Massachusetts. However, remote employees with a Massachusetts worksite and remote employees with a primary place of work in Massachusetts are included in this requirement. If the employee hired for a position may have a primary place of work in Massachusetts (even if the employee hired could also be located outside of Massachusetts), employers would be well advised to comply with the Act's requirements for that posting.

REMINDER: Annual Wage Data Reporting Obligations – Feb 1, 2026, next reporting deadline

The Act has also required, since Feb. 1, 2025, that employers with 100 or more employees submit an annual [aggregate wage data report](#), including workforce demographic and pay data categorized by race, ethnicity, sex and job category. These are not new reports but rather copies of the same required data as the U.S. Equal Employment Opportunity Commission (EEOC) Employer Information Report, commonly known as an EEO-1 report. Employers who file EEO-3 or EEO-5 reports must submit these reports every other year beginning on Feb. 1, 2025. Employers who file EEO-4 reports must submit these reports every other year beginning on Feb. 1, 2026. As with the Act's employee threshold for pay disclosures, the 100-employee threshold for pay reporting includes all full-time, part-time, seasonal, temporary and remote employees with a primary place of work in Massachusetts.

State's Paid Family & Medical Leave Updates - Eff August 31, 2025

The Massachusetts Department of Family and Medical Leave (the "Department") recently updated its Employer Portal, issued a reminder for the private plan reporting deadline of August 31, 2025, and summarized tax guidance concerning the Massachusetts Paid Family and Medical Leave law ("MAPFML").

Exempt Private Plan Employer Reporting Deadline

Employers that meet their Paid Family and Medical Leave (PFML) law obligations through an approved M.G.L. c. 175M, sec. 11 private plan are required to maintain reports, information and records related to their approved plan and furnish required data to the Department of Family and Medical Leave (DFML) on request.

Employers who are [self-insured](#), third parties who administer private plans, and [private plan insurance carriers](#) should be prepared to **submit the required private plan data to the Department by August 31, 2025**.

Employers should enlist their benefits broker to assist in determining their types of plan and whether the reporting obligation is applicable.

MA Paid Family & Medical Leave Updates from the Department - Eff August 31, 2025

The Massachusetts Department of Family and Medical Leave (the "Department") recently updated its Employer Portal, issued a reminder for the private plan reporting deadline of August 31, 2025, and summarized tax guidance concerning the Massachusetts Paid Family and Medical Leave law ("MAPFML").

Employer Portal Updates

The Department enhanced its MAPFML employer portal to improve use and accessibility for leave administrators. Among other updates, the employer portal now provides a timeline of milestone dates; a 'to do' column for action items;



access to an employee's individual average weekly wage and weekly benefit amount for easier calculation of top-off payments; and an option to download a CSV file of leave data.

Exempt Private Plan Employer Reporting Deadline

Employers that meet their Paid Family and Medical Leave (PFML) law obligations through an approved M.G.L. c. 175M, sec. 11 private plan are required to maintain reports, information and records related to their approved plan and furnish required data to the Department of Family and Medical Leave (DFML) on request.

Employers who are **self-insured**, third parties who administer private plans, and private plan insurance carriers should be prepared to submit the required private plan data to the Department by **August 31, 2025**. The Reporting Templates for 2025 are available on the Department website at the [Employer Private Plan Reporting Obligations](#) page. The type of data required includes information about employee demographics, approved and denied claims, and benefit amounts paid. The Department uses the data to evaluate MAPFML program goals and promote integrity of private family and medical care plans. The Department may withdraw its private plan approval if an employer (or the party responsible for submission) fails to submit the report by the deadline.

Employers should enlist their benefits broker to assist in determining their types of plan and whether the reporting obligation is applicable.

Reminder: State Pay Transparency Employer Obligations – Eff July 31 & Oct 29, 2025

Governor Healey signed salary range transparency legislation that imposes new salary disclosure requirements on Massachusetts employers last summer.

Beginning **October 29, 2025**, the "[Massachusetts Act Relative to Salary Range Transparency](#)" requires employers with **25 or more employees in Massachusetts** to

- (1) disclose the **pay range** for a "particular and specific employment position" in the job posting, and
- (2) provide the pay range for a "particular and specific employment position" to an employee who is offered a promotion or transfer to such position, and
- (3) upon request, provide the **pay range** for a "particular and specific employment position" to an employee holding that position or an applicant for the position.

The legislation also requires private employers with **100 or more Massachusetts employees** to **submit EEO and pay data to the Commonwealth annually, February 1, for** purposes of aggregated public reporting by the Massachusetts Department of Labor.

Employers must submit their first round of EEO and pay data to the Commonwealth by **February 3, 2025**. (Feb 1 falls on a Saturday)

Salary Range Posting Requirements – Oct 29, 2025

The new legislation aligns with recent statutes in a number of other states that have adopted pay transparency requirements over the past several years. The Act requires private employers with at least 25 employees in the Commonwealth to:

- post the "pay range" for a particular position on all job postings,
- disclose the pay range for a position to employees who are offered a promotion or a transfer to a new position with different job responsibilities, and
- upon request, provide the pay range for a particular position to an employee holding the position or to an applicant for the position.

"Posting" encompasses "any advertisement or job posting intended to recruit job applicants for a particular and specific employment position," including posts made directly by an employer or indirectly through a third party.

"Pay range" is defined as "the annual salary range or hourly wage range that the covered employer reasonably and in good faith expects to pay for such position" at the time of posting. Unlike laws in other states with recently enacted



pay transparency laws (e.g., Maryland, Minnesota, Washington), the Massachusetts law does not require disclosure of bonuses or other benefits.

Reporting Obligations

The Act also requires private employers with 100 or more employees in the Commonwealth at any time during the prior calendar year to submit an annual EEO data report that includes workforce demographic and pay data categorized by race, ethnicity, sex, and job category-mirroring federal EEOC applicability.

The new law does not necessarily create substantial additional paperwork for private employers because submission of a properly completed federal EEO-1 Employer Information Report will satisfy this filing requirement. Employers must submit this data to the Secretary of the Commonwealth annually by **February 1**. The Secretary will then provide this information to the Massachusetts Department of Labor for the publication of aggregated data on its website by July 1 of each year.

The Massachusetts Executive Office of Labor and Workforce Development has confirmed that the law requires only submission of currently existing EEO forms and acknowledged that, with the exception of state and local governments, employers in the Commonwealth will not be required to compile and submit information regarding employee compensation, unless and until the EEOC resumes collecting such information on a national basis.

FAQs

The state's Executive Office of Labor and Workforce Development has released [FAQs](#) for the workforce data reporting. The link to submit the report through the Secretary of State's web portal will be posted on the FAQs page when it's available.

Enforcement and Penalties

The law grants the Massachusetts Attorney General's office exclusive authority to enforce its provisions. Employers found in violation of the law will face the following penalties:

- **First offense:** A warning
- **Second offense:** A fine of up to \$500
- **Third offense:** A fine of up to \$1,000
- **Subsequent offenses:** Fines that escalate per Massachusetts labor laws, potentially reaching up to \$25,000.

For the first two years of the law's implementation, employers will have a two-day grace period to correct violations without facing penalties.

PFML Rate Sheets & Employee Notices – Dec 2, 2024

The Massachusetts Department of Family and Medical Leave has [issued](#) updated rate sheets, notices and a workplace poster for 2025.

Contribution rates and benefit amounts for PFML are updated annually, and the law requires employers to provide current employees with information on the new contribution rate 30 days before it changes on Jan. 1, which is **Dec. 2, 2024**. Employers must provide each new hire with a [written notice](#) about PFML **within 30 days from the employee's start date**. The employer must obtain the employee's **written acknowledgment of receipt** or have the employee sign a statement that they refused to sign the acknowledgment.

Employees are required to use them to meet obligations under the state's paid family and medical leave (PFML) law. Failure to comply with the law's notice requirements can result in employer fines.

- [2025 Rate Sheet](#) - Workers must be apprised of the 2025 PFML contribution rate by Dec. 2, 2024.
- [2025 Employee Notice](#)* - Different forms of the notice are available for different types of employers.
- [2025 Workplace Poster](#) - The poster must be displayed in the workplace.

* The department publishes separate notices for employers with 25 or more covered individuals, fewer than 25 covered individuals, 25 or more self-employed individuals, and fewer than 25 self-employed individuals.



Details included in the attached resource

Employers Must Complete HIRD Form - Dec 15, 2024

Massachusetts employers with six or more employees must annually submit a health care coverage reporting form, referred to as the Health Insurance Responsibility Disclosure (HIRD). The HIRD form is available to be filled out electronically starting Nov. 15 and must be completed by **Dec. 15, 2024**.

Dec. 15 - Covered employers must electronically complete the **HIRD form** by Dec. 15. This reporting requirement is in addition to the Affordable Care Act's (ACA) federal employer reporting requirements under Internal Revenue Code Sections 6055 and 6056.

Jan. 31 - Employers that sponsor an employer-sponsored health plan must provide **Form 1099-HC** by Jan. 31 of each year. Most carriers will issue this form on behalf of employers.

Details included in the attached resource and will also be communicated in advance of the effective date

Amended State Earned Sick Time to Cover Reproductive Loss – Nov 21, 2024

Massachusetts has amended its earned sick time [law](#) to provide leave for employees experiencing reproductive loss. The [amendment](#) takes effect Nov. 21, 2024.

The change allows a new reason for employees' earned sick time use: to address their physical and mental health needs and those of their spouse if the employee or the employee's spouse experiences pregnancy loss or a failed assisted reproduction, adoption or surrogacy.

Employer Reminder: Earned sick time in Massachusetts applies to all private employers and employees. Employers with 11 or more employees must compensate the leave, while smaller employers may provide the time as unpaid. Employees accrue one hour of leave for every 30 hours worked, and they may use up to 40 hours of earned sick time annually.

MA 2025 PFML Benefit to Increase – 2025

The Massachusetts paid family and medical leave (PFML) [contribution rates](#) will remain at their 2024 levels for 2025, but the maximum employee [benefit](#) will increase. Beginning Jan. 1, 2025, the maximum weekly PFML benefit for covered employees will be \$1,170.64, up from \$1,149.90 in 2024. The rate is based on the state's average weekly wage.

State's Supreme Judicial Court Rules Leave Does Not Accrue During PFML

As a point of clarity, the Massachusetts Supreme Judicial Court ruled on September 13, 2024, that the state's paid family and medical leave (PFML) [law](#) does not provide for the accrual of vacation time, sick time and length-of-service credit during the period workers are on PFML. The Supreme Judicial Court affirmed the lower court's dismissal, holding that the statute only ensures that any rights the employee already has to the benefits at issue are not affected while the employee is on leave. As an additional reminder, Health insurance must be continued during PFML.

State Enacts Pay Transparency (July 2025) & Pay Data Reporting Law (Feb 2025)

On July 31, 2024, Massachusetts enacted the [Frances Perkins Workplace Equity Act](#). This law requires employers with 100 or more employees to provide pay data reports to the Massachusetts state secretary effective **Feb. 1, 2025**, and employers with 25 or more employees to disclose the pay range in job postings effective **July 31, 2025**.

Pay Data Reporting Requirements

Under the new law, all employers with **100 or more employees** who are subject to federal equal employment opportunity (EEO) reporting requirements (i.e., required to file EEO-1, EEO-3, EEO-4 or EEO-5 data reports) must provide a copy of their federal EEO data reports for the prior year to the Massachusetts state secretary by Feb. 1. The reports must contain workforce demographic and pay data categorized by race, ethnicity, sex and job category.



Pay Transparency Requirements

Effective **July 31, 2025**, employers with **25 or more employees** will be required to:

- Disclose the pay range for a specific position in the posting of the position;
- Provide the pay range for a specific position to an employee who is offered a promotion or transfer to a new position with different job responsibilities; and
- Provide the pay range for a particular position to an existing employee holding such position or to an applicant for such position upon request.

Under the new law:

- **“Pay range”** means the annual salary or hourly wage range that the employer reasonably and in good faith expects to pay for such position; and
- **“Posting”** means any advertisement or job posting intended to recruit job applicants, whether such recruitment is done by the employer or through a third party.

No Retaliation

Employers may not terminate or otherwise retaliate or discriminate against any employee or applicant for exercising their rights under the pay transparency provisions of the law (e.g., make a complaint, or institute or testify in any proceeding regarding an alleged violation).

Enforcement and Penalties

The Massachusetts attorney general has the exclusive authority to enforce the law.

Employers that fail to submit an annual report **or** post pay ranges will be subject to

- a warning for the first offense,
- \$500 for the second offense,
- \$1,000 for the third offense, and
- penalties ranging from \$7,500 to \$25,000 for subsequent offenses.

For violations that occur on or prior to July 31, 2026, employers will have two business days to cure a violation before incurring a fine.

State Requires Pay Range Disclosure and Pay Data Reporting – Feb 2025 & July 2025

On July 31, 2024, Massachusetts Governor Maura T. Healey signed into law regulations requiring employers to disclose pay range information.

Employers will have some time to get ready for these new requirements:

Date	Covered Employer	Obligation
February 1, 2025	Employers with 100 or more employees in Massachusetts and subject to federal EEO filing requirements	Submit demographic and pay data to the Secretary of the Commonwealth
July 31, 2025	Employers with 25 or more employees in Massachusetts	Pay range disclosure obligations go into effect

Employer-away: To prepare for this new requirement, Covered Employers with 25 or more employees in Massachusetts should take measures to comply *before* July 31, 2025. More to come as the effective date approaches

Michigan

State Increases Minimum Wage - Eff Jan 1, 2025



On January 1, 2026, Michigan's minimum wage will increase to \$13.73 per hour. The minimum base wage for tipped employees will increase to \$5.49 per hour. Michigan's minimum wage applies to employers that have two or more employees.

Updated Paid Sick Leave for Small Employers –Eff March 23 & Oct 1, 2025

PAID SICK LEAVE

The legislature did make it a little easier to manage for small employers back in February. They also added to or clarified a few aspects of the law.

Key changes:

- The definition of "small employer" is now an employer with 10 or fewer employees (instead of nine or fewer)
- Small employers don't have to comply until **October 1, 2025**
- Small employers only need to provide 40 hours of paid sick leave per year (the additional 32 hours of *unpaid* sick leave is **not** required)
- Employers can make new hires wait until their 120th day of work to use accrued earned sick time (EST) (instead of their 90th day)
- Employers now have until **March 23** to provide employees with notice of their EST rights (instead of February 21)
- Employees who are rehired within two months (instead of six) need to have their unused EST restored, unless it was paid out at termination

The [notice poster](#) provided by the state has been updated, as have the [FAQs](#). Access the amended

Updated Paid Sick Leave –Eff March 23 & Oct 1, 2025

Just hours before the new laws were to take effect on February 21, Michigan passed amendments ([SB 8](#) and [HB 4002](#)) to both minimum wage and sick leave. The changes took effect immediately when signed by the governor a few hours later. The key changes and clarifications included below:

The future minimum wage increases are now a little bigger and coming a little sooner.

Min Wage Rates are now:

- \$13.73 per hour starting January 1, 2026
- \$15 per hour starting January 1, 2027

And now, instead of fully phasing out the tip credit, it will only be reduced to 50% of minimum wage by 2031. The future base minimum wage increases and tip credit changes are covered in this minimum wage [FAQ](#).

PAID SICK LEAVE

The legislature did *not* drastically overhaul the sick leave law (like they did back in 2018), but did make it a little easier to manage for small employers. They also added to or clarified a few aspects of the law.

Key changes:

- The definition of "small employer" is now an employer with 10 or fewer employees (instead of nine or fewer)
- Small employers don't have to comply until **October 1, 2025**
- Small employers only need to provide 40 hours of paid sick leave per year (the additional 32 hours of *unpaid* sick leave is not required)
- Employers can make new hires wait until their 120th day of work to use accrued earned sick time (EST) (instead of their 90th day)
- Employers now have until **March 23** to provide employees with notice of their EST rights (instead of February 21)



- Employees who are rehired within two months (instead of six) need to have their unused EST restored, unless it was paid out at termination

Key clarifications—many of these provisions would have been assumed even though they were omitted, but now they are crystal clear:

- Frontloading is expressly allowed and alleviates the need for carryover
- When EST is used, it should be paid at the employee's regular hourly rate or minimum wage (whichever is greater)—overtime, commissions, tips, and bonuses are expressly excluded
- Employers are expressly allowed to take disciplinary action against employees who use EST for inappropriate purposes
- Employers who opt to have a single bank of paid time off only need to treat 72 hours of it like EST (or 40 for small employers)

The [notice poster](#) provided by the state has been updated, as have the [FAQs](#).
Access the amended law [here](#).

State Expands Child Labor Protections – April 2, 2025 & Oct 2, 2026

Michigan has amended its child labor laws to establish a more comprehensive framework of protections for minors (those aged 17 and younger). This includes requiring employers to register with the state's online system if hiring minors and dramatically reducing the maximum work hours for minors 15 and under, especially during school weeks. The amendments take effect April 2, 2025, though some provisions, including the registration system requirements, are effective October 2, 2026. [MI HB 5594](#) was signed by the governor on January 16, 2025.

Reminder: State's Earned Sick Time in Effect - Feb 21, 2025

The Earned Sick Time Act requires employers of *all* sizes to provide paid earned sick time (EST) to all Michigan employees, up to 72 hours per year. There are no exemption for small employers; however, those with nine or fewer employees only have to pay for the first 40 hours of EST used—any remaining hours can be unpaid.

The Michigan Department of Labor and Economic Opportunity (LEO) has not yet indicated how employees' current sick leave banks (for those who have them) should be treated in the transition.

Accrual and Carryover

Employees will accrue EST at a rate of one hour for every 30 hours worked beginning February 21, 2025, or on their hire date—whichever is later. Employers can calculate exempt employees' accrual based on a 40-hour workweek (even if they generally work more than that) or their usual number of hours worked if they regularly work less than 40 hours. According to FAQs from LEO, employers are permitted to frontload all 72 hours (or more) at the beginning of the benefit year. Prorating is not addressed.

Carryover of unused, accrued EST must be allowed from year to year, even if frontloaded.

Use

Employees can use EST as it is accrued, except that employers can require new hires to wait until their 90th calendar day to start using EST. Employees can use EST for the following reasons:

- Their own or their family member's mental or physical illness, injury, or health condition, including medical diagnosis, care, treatment, or preventive medical care
- Certain reasons related to domestic violence or sexual assault
- Meetings at their child's school or place of care related to the child's health, disability, or the effects of domestic violence or sexual assault on the child
- The closure of their workplace or their child's school or place of care by a public health official because of a public health emergency
- Certain reasons related to limiting the spread of a communicable disease

Employers can cap annual use of EST at 72 hours.



Documentation

When employees use EST for *more* than three consecutive days, employers can request reasonable documentation. However, the employer will be responsible for the employee's out-of-pocket costs associated with getting the required documentation.

Notice

Employers need to give written notice to employees about their EST rights by February 21, 2025, or upon hire—whichever is later. They are also required to display a poster with the same information in a conspicuous and accessible location in the workplace. Both the notice and posting must be provided in English, Spanish, and any primary language spoken by at least 10% of employees, if the state provides a translation in that language. The state has created a model notice that can be found [here](#).

More Information

LEO has created an [EST website](#) with FAQs, informational slides, postings, and more.

Note that legislation is currently pending that could make additional changes to these laws, if passed. These changes *could* take effect before February 21, though that appears unlikely. We'll be monitoring the situation closely and will provide updates as needed.

State Issues FAQs and Other Materials for Earned Sick Time Act – Feb 21, 2025

The Michigan Department of Labor and Economic Opportunity has published answers to frequently asked questions ([FAQs](#)) about the upcoming [Earned Sick Time Act](#) (ESTA) that will take effect Feb. 21, 2025. The department has also posted a [brochure](#) and sample [workplace poster](#) on its website, along with a recorded webinar discussing the law.

State Supreme Court Increases Minimum Wage and Paid Leave – Feb 2025

Michigan Supreme Court [reversed](#) a lower court decision, reinstating wage and paid sick leave laws presented as 2018 ballot initiatives. This means significant changes to Michigan's minimum wage and paid sick leave requirements, including the eventual elimination of the tipped minimum wage. The ruling was issued in the case *Mothering Justice v. Attorney General*.

Employer Takeaways: Employers should review the new minimum wage, comp time and expanded paid sick leave requirements to ensure compliance by Feb. 21, 2025.

Paid Sick Leave Expansion

The original paid sick leave provisions of the 2018 ballot initiative will take effect **Feb. 21, 2025**.

The legislature's amendments to the ESTA significantly [narrowed employee benefits](#), and they renamed the law the [Paid Medical Leave Act](#) (PMLA), which is currently in effect.

Key differences between the laws include that the more generous ESTA:

- Covers all employers (the PMLA exempts employers with fewer than 50 employees);
- Covers all employees (the PMLA contains employee exemptions);
- Requires accrual of one hour of leave per every 30 (not 35) hours worked;
- Allows employees to use 72 hours of leave annually instead of 40; and
- Prohibits employers from taking retaliatory action against employees.

Minimum Wage Increases

In keeping with the terms of the original Wage Act, which would have increased Michigan's minimum wage starting in 2019, the state's Supreme Court established a minimum wage and tip credit schedule as follows:

- **Feb. 21, 2025**—The minimum hourly wage will be \$10 plus the state treasurer's inflation adjustment, which is calculated according to state law. Tipped employees must be paid at least 48% of the minimum wage.
- **Feb. 21, 2026**—The minimum hourly wage will be \$10.65 plus the state treasurer's inflation adjustment, which is calculated according to state law. Tipped employees must be paid at least 60% of the minimum wage.



- **Feb. 21, 2027**—The minimum hourly wage will be \$11.35 plus the state treasurer's inflation adjustment, which is calculated according to state law. Tipped employees must be paid at least 70% of the minimum wage.
- **Feb. 21, 2028**—The minimum hourly wage will be \$12 plus the state treasurer's inflation adjustment, which is calculated according to state law. Tipped employees must be paid at least 80% of the minimum wage.
- **Feb. 21, 2029, and thereafter**—The state treasurer will calculate the inflation-adjusted minimum hourly wage according to state law. Tipped employees must be paid at least the minimum wage, as the tip credit will cease to exist.

In addition, on **Feb. 21, 2025**, another provision of the original Wage Act takes effect. Employees will be allowed to accrue 1.5 hours of paid time off for every hour of overtime worked in lieu of compensation ("comp time"), up to a maximum of 240 hours. The law allows employees to later convert the comp time back into compensation at the same wage they were earning when the hours accrued.

Michigan Expands Antidiscrimination Protections

As of **February 13, 2024**, Michigan has expanded its antidiscrimination law to prohibit discrimination against employees and applicants on two fronts. This law applies to employers of **all sizes**.

- Expanded the definition of "sex" to include *all* terminations of pregnancy and related medical conditions.
- State added **sexual orientation** and **gender identity or expression** as protected categories under the statute.

Employer Take Away:

Double check your Equal Employment Opportunity (EEO) policy, and any other policies that include protected classes, to ensure sexual orientation and gender identity or expression are included. If they're not included be sure to update it.

Minnesota

Change in Sick & Safe Leave Notice Requirement Changes – **Dec 31, 2025**

Employers will be allowed to require documentation from employees to support their use of earned sick and safe time (ESST) when leave is used for more than *two* consecutive scheduled workdays (currently, it's more than *three* consecutive workdays). ETC's current MN State Handbook Addendum reflects changes.

State Releases Paid Family Medical Leave: Notices – **Distribution Deadline Dec 1, 2025** Benefits – **Eff Jan 1, 2026**

The Minnesota Department of Employment and Economic Development has published sample notices for employer use on the [website](#) for Paid Leave Minnesota, the state paid family and medical leave program that begins Jan. 1, 2026.

The Paid Leave law requires employers to display a workplace [poster](#) about the program by Dec. 1, 2025. In addition, employers must provide each employee with a [notice](#) containing specific information about their right to the leave within 30 days from the start of their employment or 30 days before premium collection begins. For existing employees, this deadline is also Dec. 1, 2025. The notice must be in the employee's native language, although to date, sample notices and posters have only been made available in English.

The department has also published a required workplace [poster](#) and sample employee [notice](#) for employers that will be **using approved equivalent plans in lieu of the state paid leave plan.**

IMPORTANT: The employee notices **must be acknowledged by the employee in writing or electronically.** They may be provided electronically if the employer provides access to a computer during the employee's regular working hours so the employee can review and print the notice.

MN Paid Leave Recap – **Eff Jan 1, 2026**



Virtually all Minnesota employers are covered by Paid Leave, which will provide up to 20 weeks of paid, job-protected family and medical leave for eligible employees, beginning **Jan. 1**. Funding for the program is split evenly between employers and employees, starting **Jan. 1**. Employers should begin deducting the employee share of the premium on January 1, 2026. The first premiums must be paid to the state Department of Employment and Economic Development (DEED) by April 30, 2026.

The Paid Leave law allows covered employees to take up to 12 weeks of *medical leave* for their own serious health condition or up to 12 weeks of *family leave* per benefit year. Family leave can be taken to bond with a new child, care for a sick family member, support a family member called to active military duty, or to respond to safety-related issues such as domestic violence. If an employee needs both medical leave and family leave during a benefit year, the total combined leave is limited to 20 weeks per benefit year.

The state has a [website](#) with FAQs, an overview of the program, and other resources for employers.

Reminder Minneapolis & St Paul Aligns PSL Ordinance with State PSL Regulations – Eff Dec 31, 2025

Minneapolis Aligns PSL Ordinance with State PSL Regulations – Eff Dec 31, 2025

Minneapolis has [amended](#) its Sick and Safe Time ordinance, which took effect in 2017, to align with the 2024 statewide Minnesota [Earned Sick and Safe Time law](#). Employers in Minnesota localities with their own sick leave laws were already [obligated](#) to follow the leave provisions most favorable to their employees.

The changes in the Minneapolis ordinance are [intended](#) to reduce confusion by eliminating obsolete lower standards in the city. The amendments take effect **Dec. 31, 2025**.

Key Changes applicable to the Ordinance:

- **All employers** will now be required to provide paid sick and safe time, regardless of their size. *Previously, employers with fewer than six employees could provide the leave as unpaid.*
- Employees will **be eligible** for leave **if they are anticipated to work 80 hours in Minneapolis**. *The prior wording limited eligibility to employees who work in Minneapolis for 80 hours in a year.*
- A **revised definition of “family member,”** which will now include a wide variety of relatives of employees and their registered domestic partners, such as step-, foster and adoptive parents, grandchildren, grandparents and siblings; guardian, ward and in loco parentis relationships; in-law relationships; and members of the employee’s household, among others. “Family member” will also include any individual related by blood or whose close association with the employee is the equivalent of a family relationship, and one individual annually designated by the employee.
- PSL Employee exceptions: 1) elected city officials 2) volunteer & on-call firefighters and ambulance workers 3) certain collective bargaining agreements may waive the requirements of the ordinance.

ETC will be reviewing the applicable State Handbook Addendum Policies and publishing any needed updates ahead of 2026.

St. Paul Aligns PSL Ordinance with State PSL Regulations – Eff Dec 31, 2025

St. Paul has [amended](#) its Earned Sick and Safe Time (ESST) ordinance to align with the statewide Minnesota Earned Sick & Safe Time - [ESST law](#), which took effect Jan. 1, 2024, and was later amended. Employers in Minnesota localities with their own sick leave laws were already [obligated](#) to follow the leave provisions in the state or local ESST law most favorable to their employees. The amendments to the city ordinance are intended to “ensure uniform compliance procedures for employers and maximum protections for employees.”



The amendments take effect 30 days after their publication.

Key Changes applicable to the Ordinance:

- Employees will be eligible for leave if they are **anticipated to work** 80 hours in St. Paul in a year. *The prior wording limited eligibility to employees who **work** in the city for 80 hours in a year.*
- Permitted use of ESST include leave for reasons related to the death of a family member or harassment of the employee or a family member.
- Amendments eliminated:
 - provision allowing employers to limit the use of ESST to hours when the employee was scheduled to work in St. Paul.
 - requirement that employees work in St. Paul for one year before being entitled to carry over at least 80 hours of unused accrued sick time into the following year. In addition, employees will be allowed to use ESST in the same increment in which they are paid (instead of the smallest increment tracked by the employer's payroll system). However, employers are **not** required to allow leave in less than 15-minute increments, nor can they require that it be used in increments greater than four hours.
- Amendments allow employers to require reasonable documentation for leave of more than **2 consecutive days rather than 3**, as previously. For absences due to domestic abuse, sexual assault, harassment or stalking, reasonable documentation may include a written statement from the employee indicating that leave is being used for a qualifying purpose, if documentation cannot be obtained in a reasonable time or without added expense.
- Amendments to the ordinance both add and strike employee exceptions.
 - Elected officials and short-term farm laborers are newly excepted from coverage.
 - The exception for airline cabin and flight crew members is eliminated.
 - Other employee exceptions apply to ESST for the closure of the employee's place of business due to weather or other public emergency, or an employee's need to care for a family member whose school or place of care has been closed due to weather or other public emergency.
 - Employees now exempt from leave for these reasons include employees whose duties require them to work during public emergencies and weather events, firefighters, police officers, prison guards, 911 telecommunicators, public employees with a commercial driver's license, certain collectively bargained public employees, and employees needed to maintain minimum staffing requirements for the employer (if the employer's written notice of that fact meets specific requirements).

ETC will be reviewing the applicable State Handbook Addendum Policies and publishing any needed updates ahead of 2026.

State Guidance on Meal & Rest Break Amendments – Eff Jan 1, 2026

The January 1, 2026, changes to Minnesota's meal and rest break laws require employers to provide fifteen-minute breaks and a thirty-minute meal break depending on hours worked.

Highlights:

- Minnesota's break laws are only applicable to "employees" as defined by the Minnesota Fair Labor Standards Act, excluding exempt employees and some U.S. Department of Transportation (DOT)-related positions.
 - Employers must only provide one meal period per day if an employee works 6 continuous hours or more.
 - An unpaid meal period of twenty minutes or more is not counted as "hours worked" for purposes of calculating rest breaks.
 - Employees must be provided rest breaks of at least 15 minutes or enough time to utilize the nearest convenient rest room (whichever is longer) within each 4 continuous hours of work
- The Minnesota Department of Labor and Industry (MNDOLI) has now published guidance in the form of frequently asked questions ([FAQs](#)) providing some clarity. While not law, the FAQs indicate how MNDOLI interprets the laws and how they are anticipated to enforce them. MNDOLI has indicated it is evaluating whether it will conduct breaks-related rulemaking.



ETC will update and released the applicable MN State Handbook Addendum in the coming months.

Reminder: State's Paid Leave Requirements

Employers wishing to learn more about the State's Paid Leave for employees effective July 1 can access the State's provided training session [HERE](#). Previous HR WIRE publications also included information for employers.

State Amends Paid Sick Leave & PFML – Eff July 1, 2025

Minnesota has enacted changes to its earned sick and safe time (ESST) and paid family and medical leave (PFML) laws. The amendments were passed in a special legislative session as part of a [budget measure](#).

ESST Changes—Notice and Documentation

One of the main changes to the ESST law is that, effective **July 1, 2025**, employees may be required to provide notice of their need for unforeseeable leave “as reasonably required by the employer” rather than “as soon as practicable,” the current governing language in the provision.

A second change allows employers to require documentation in support of ESST leave after two, instead of three, consecutive days of time off. This change also takes effect **July 1, 2025**.

Other ESST amendments allow:

- Employees to voluntarily trade shifts with a replacement worker to cover their leave time (effective July 1, 2025); and
- Employers to advance ESST to an employee based on the employee's anticipated work hours for the remainder of the year, effective Jan. 1, 2026. However, if the advanced amount of leave falls short with respect to the number of hours the employee actually works, the employer must make up the difference with additional ESST.

PFML Changes

Contributions and benefits for the state's PFML program will begin **Jan. 1, 2026**. PFML funding is split evenly between employers and employees, with the combined premium set by the commissioner of Employment and Economic Development before Jan. 1, 2026, by July 31, 2026, and thereafter by each July 31 for the following year. The statute had established a limit on the annual premium rate of 1.2% of employee wages up to the Social Security wage base; the amendments lower that cap to 1.1%. Currently, the rate is set at 0.88%, with a [discount](#) for eligible small employers.

ETC published MN State Handbook Addendum reflective of these changes with the June HR WIRE.

State Amends Meal & Rest break Requirements – Eff January 1, 2026

On June 14, 2025, Minnesota's governor signed an omnibus bill, [SF 17](#), which includes amendments to the state's meal and rest break requirements found at Minnesota Statute Sections 177.253 and 177.254.

Effective January 1, 2026, an employer must allow employees “a rest break of at least 15 minutes or enough time to utilize the nearest convenient restroom, whichever is longer” within every four hours of consecutive work. The current standard requires merely an “adequate time to utilize the nearest convenient restroom” each four consecutive work hours. The amendment is a change by setting a minimum baseline of 15-minute paid rest breaks and also opens the door to potentially longer paid rest breaks if it takes longer to utilize the nearest convenient restroom.

Similarly, effective January 1, 2026, an employer must “allow” employees working for “six or more consecutive hours a meal break of at least 30 minutes.” The current standard requires employers to “permit” employees working eight or more consecutive hours “sufficient time to eat a meal” and does not specify a length of time employees must be permitted to eat a meal.



The amendments also include new remedies sections that provide that an employer “that does now allow” a required 15-minute (or more) rest break or a 30-minute meal break “is liable to the employee” for the rest or meal break time “that should have been allowed at the employee’s regular rate of pay, plus an additional amount as liquidated damages.”

St Paul’s Minimum Wage Increase - Eff July 1, 2025

Effective July 1, 2025, St. Paul’s minimum wages for small and micro business will increase as follows:

- \$15 per hour for small businesses (6–100 employees)
- \$13.25 per hour for micro businesses (5 employees or fewer)

The minimum wage for employers with 101 or more employees will remain at \$15.97 per hour.

More information can be found on the city’s [website](#).

Minneapolis Amended Anti-Discrimination Regulations – Eff August 1, 2025

On May 12, 2025, the city of Minneapolis enacted extensive amendments to its existing anti-discrimination ordinance, including expanding definitions relating to protected characteristics and accommodations. The ordinance applies to employers of all sizes within Minneapolis, any employer that hires an employee whose services will be performed even partially from within Minneapolis, and employers that contract with the city. These amendments will become effective August 1, 2025.

- Minneapolis adds new protected classifications, including justice-impacted status, housing status, and height and weight to its anti-discrimination ordinance.
- The amendments also expand an employer’s duty to make reasonable accommodations for disability, pregnancy-related limitations and religion.

Additional Details

Importantly, the new law includes several definitions of new and existing protected characteristics, including the following:

- **Familial status:** Adds that protected familial status includes those caring for one or more individuals who cannot meet their own requirements for physical health or safety due to their inability to receive, evaluate, or communicate information.
- **Height and weight:** Clarifies that protected height and weight include both the numerical measures of one’s height and weight and others’ impressions of these traits (e.g., that someone is considered fat, thin, short, or tall).
- **Housing status:** Having, or not having, a fixed, regular, adequate nighttime residence.
- **Justice-impacted status:** Having a criminal record or history, including any arrest, charge, conviction, period of incarceration, or probationary status. The ordinance uses the euphemism “justice impacted status” to refer to persons charged or convicted of crimes, including felons. The ordinance provides that employers may only take adverse action, such as discharge against employees or refusal to hire against applicants, after determining that a criminal conviction’s impact on the ability, capacity, or fitness of the person to perform the duties of the position they are in or for which they are being considered for hire requires the adverse action. In making that assessment, employers must consider whether the person was convicted, the passage of time since the conviction, the nature and gravity of the crime, the person’s age at the time of the offense, any rehabilitation that has taken place, and the risk to the property or safety of those working around the person. The ordinance also provides that an arrest alone, without a subsequent conviction, is not enough to take action against the person. However, employers are entitled to examine the facts surrounding a charge without a



conviction, using the factors listed above, and make a determination based on those facts for possible adverse action.

- **Race:** Clarifies that race includes traits historically associated or perceived to be associated with race, including skin color, certain physical features, hair texture, and protective hairstyles.
- **Disability:** The term has been amended to include having an impairment that is episodic or in remission that would materially limit a major life activity when active.
- **Undue hardship:** Removes the specific factors to be considered in assessing an undue hardship claim and clarifies that, in relation to reasonable accommodations, an “undue hardship” means a situation requiring significant difficulty or expense depending on a number of factors, determined on a case-by-case basis and specific to the area of discrimination.

To learn more access a May 15th article released by Littler Mendelson [HERE](#). ETC published an updated State Handbook Addendum to reflect these changes June 2025.

State’s Paid Leave Guidance Issued for Opting Out - Private Plans

Minnesota’s Department of Employment and Economic Development (DEED) has issued initial guidance for employers who do not want to participate in Minnesota’s Paid Leave Law (PLL) program and instead wish to offer an equivalent private plan. (full guidance available [here](#)).

Employer Takeaway: Employers seeking to implement or administer private leave plans — and avoid paying into the state’s Paid Leave fund — should act now to formalize their plan and obtain approval from the state. Prior to seeking approval, employers should ensure that their proposed plan provide benefits that meet or exceed those mandated by the state.

State Paid Leave Wage Reports - Oct 31, 2024

Minnesota employers of all sizes will be required to submit their first employee **wage reports** to the state by October 31, 2024, as part of their obligations under the state’s Paid Leave law. The reports must include each employee’s name, Social Security number, hours worked, and wages paid for the period of July 1, 2024, through September 30, 2024. Employers will need to submit this information quarterly through the state’s Unemployment Insurance (UI) online system. Employers that are covered by the UI program will be able to submit a single wage detail file for both programs when they pay their UI taxes. Employers not covered by UI are required to set up a “Paid Leave Only” account in the UI system.

For more information, see [Minnesota’s Paid Leave employer website](#) or the September HR WIRE

State Makes Several Changes to Work Comp Laws – Aug & Oct 2024

Although changes are not likely to greatly impact employers, the below is provided for informational purposes to keep employers aware of the recent changes.

The governor of Minnesota recently signed legislation that changed a number of key workers’ compensation laws. The bill was enacted on May 8, 2024, with some changes going into effect Aug. 1, 2024, and others to go into effect on Oct. 1, 2024, with the aim of such being to offer improved financial support, fair compensation and more thorough processes for determining benefits.

Key Changes

- Procedural timeline extensions;
- An increase to the maximum compensation rate increase;
- Medical record penalties;
- Average weekly wage (AWW) revisions for agricultural workers;
- Attorney fees increase; and
- An increase in home remodeling benefits.



Employment Law Updates – Aug 2024

The below take effect August 1, 2024, and apply to employers of all sizes:

ANTIDISCRIMINATION LAW EXPANDED

Minnesota's antidiscrimination statute has had minor updates to several definitions.

First, the definition of **disability** has been updated to include impairments that are episodic or in remission if they would materially limit a major life activity when active. This brings Minnesota's definition in line with the federal Americans with Disabilities Act (ADA) (which only applies to employers that have 15 or more employees).

Second, the definition of **discriminate** has been broadened to include any form of harassment, not just sexual harassment.

Finally, the definition of **familial status** has been broadened to include, among other things, having custody of a minor child (even when they don't live with you) and caregiving for an incapacitated person whom the employee lives with.

Employer takeaway: If your Equal Employment Opportunity (EEO) policy includes these definitions (which is unlikely), update it by August 1.

EARNINGS STATEMENTS MUST BE RETAINED

All employers must keep a record of earnings statements for each nonexempt employee for every pay period for at least three years as part of their recordkeeping requirements under the state's Fair Labor Standards Act. While federal law already requires that pay records of nonexempt employees be kept for three years, the state law is more specific in requiring that earnings statements (aka pay stubs) be retained.

PREGNANCY AND PARENTING LEAVE CHANGES

The provisions regarding the continuation of benefits in the Pregnancy and Parenting Leave law and the pregnancy accommodations law have been updated to align with the state's upcoming Paid Leave law.

Employers are required to maintain coverage and continue paying their share of any group insurance premiums during any period of benefits or leave granted under these statutes. Employees are responsible for maintaining their portion of the premium payments.

Additionally, employers can't reduce an employee's Pregnancy and Parenting Leave entitlement by any period of paid or unpaid leave an employee takes for prenatal care medical appointments.

Employer takeaway: Adjust language in your policies as needed and ensure that you pay the group insurance premiums during covered pregnancy and parenting leaves.

TIPS RECEIVED BY ELECTRONIC MEANS

Employers must credit any tips an employee receives through electronic means (like a credit card) in the pay period they are received and must distribute the *full amount of the tip* that was indicated in the payment to the employee no later than the next scheduled pay period.

Employer Takeaway: Work with your payroll or accounting department to ensure tips are distributed in a timely fashion and are not reduced by credit card service (or other) fees.

ORAL FLUID DRUG TESTING

Employers will be permitted to conduct applicant and employee oral fluid (saliva) testing for drugs, alcohol, and cannabis under specific circumstances, without having to use a testing laboratory to conduct the initial test. The law requires that employers follow specific procedures regarding notifying the employee of the test results and confirming a positive test result at an employee's request. Due to the overall complexity of Minnesota's employment drug testing laws, we recommend consulting with an attorney if you're interested in doing this kind of testing.

Minimum Wage Update – July 1



Minneapolis

The minimum wage will be \$15.57 for employers of *all* sizes.

St. Paul

Employers with 1–5 employees: \$12.25

Employers with 6–100 employees: \$14

Employers with 101 or more employees: \$15.57

Minnesota Amends Sick Leave, Paid Family and Medical Leave

Minnesota has enacted the [2024 Transportation, Housing and Labor Omnibus Budget Bill](#), which makes numerous changes to the state's earned sick and safe time (ESST) and paid leave laws.

Amended Sick & Safe Leave Law:

The most significant changes relate to reporting and usage requirements, and a majority of the clarifications and updates to the ESST law are effective immediately. The changes of most practical importance to companies employing workers in Minnesota relate to tracking ESST, reporting requirements, using paid time off to satisfy ESST requirements, and covered employees:

- The amendments override the Minnesota Department of Labor and Industry's position that employers must track ESST using the smallest increment of time the employer uses for tracking time worked. Instead, employers are permitted to require ESST use in increments of no less than 15 minutes.
- Employers are no longer required to include information about accrued and used ESST on each earnings statement issued to an employee. Instead, employers have the option of making the information available to employees through an electronic system, as long as the employer provides access to a computer that employees can use to check their ESST balance during regular working hours.
- Effective **Jan. 1, 2025**, employers who meet their ESST obligations through a general paid time off policy will have to follow ESST requirements with respect to all such paid time off. In other words, employers who do not maintain a separate ESST bank will be required to allow all available time off that can be used for personal illness or injury to be taken as ESST, as long as the time qualifies as ESST under the statute.
- An employee is immediately covered and may begin using ESST if it is anticipated that the employee will work at least 80 hours in a year for an employer in Minnesota. The previous statutory language had suggested that an employee was not eligible for ESST until they had actually worked 80 hours in the state.

The amendments also include new information on how to calculate pay for ESST and use of ESST as bereavement leave.

Under Minnesota's Paid Leave Law (PLL) that was passed in 2023, eligible employees may take up to 20 weeks per year of paid leave during certain family and medical leave events starting in **January 2026**. The PLL created a state-run family and medical leave insurance account modeled after the unemployment insurance fund. By **October 31, 2024**, employers must submit their first quarterly wage detail report. This first report will be based on wages paid between July 1, 2024, and September 30, 2024. Reports will be submitted through DEED's employer portal. [DEED's website](#) explains in detail what must be included on a wage detail report and how to submit it.

Minnesota Employers Must Provide Paid Sick Leave in 2024

Effective Jan. 1, 2024, nearly all Minnesota employers are required to provide their workers with [paid earned sick and safe time \(ESST\)](#). Employees are eligible for ESST if they work at least 80 hours in a year in Minnesota. Leave accrues at a rate of one hour of ESST for every 30 hours worked, up to a maximum of 48 hours per year. Employers must give notice to all employees that they are entitled to ESST, and any employee handbooks must include a notice of employee rights and remedies.



Significant Changes to State's Independent Contractor & Employment Laws - Updates to Employee Misclassification Prohibitions – July 1

Effective **July 1, 2024**, all employers, as well as their owners, risk significantly increased penalties for misclassifying employees as independent contractors. In addition, it changes the independent contractor test for those performing building construction or improvement services. Under the new statute, no person may:

- Fail to classify, represent, or treat an individual who is an employee as an employee under applicable law.
- Fail to report a person as an employee when required by applicable law.
- Require an employee to misrepresent or misclassify themselves as non-employees, including as an independent contractor.

Officers or agents who engage in the above prohibited activities can be deemed personally liable. Compensatory damages to any misclassified person may be available, along with penalties of up to \$10,000 for each misclassified person and each violation, and a penalty of up to \$1,000 for each person who fails to cooperate or obstructs an investigation into violations of the classification law. Additional clarifications and additions specific to construction employees and contractors have also been added.

Key Takeaway: Employers operating in Minnesota should carefully evaluate whether the independent contractors with whom they conduct business are properly classified under state law. In particular, in the construction industry, contractors have until March 1, 2025, to review their business models and contracts to ensure that their subcontractors meet the new 14-factor test. With the new 14-factor test focused on the time at which the services were provided, construction contractors will want to be extra vigilant to ensure that their subcontractors' registrations and licenses remain valid through the entire time when they are performing work for the contractor. Inadvertent lapses in registrations/licensure could lead to significant misclassification liabilities.

([Minn. Stat. §§ 177.27, 181.722, 181.723](#))

New Pay Transparency Disclosure Requirements - Jan 1, 2025

The Minnesota legislature continues to expand protections for job applicants. In 2023, Minnesota enacted legislation that prohibits employers from inquiring into an applicants' pay history during the hiring process. Minnesota Gov. Walz signed the [Omnibus Labor and Industry policy bill](#), including new job posting requirements. This law is in addition to existing Minnesota [wage disclosure protections](#) for employees. Now, most employers will be required to disclose salary ranges in their job postings. The pay transparency law will take effect **January 1, 2025**.

Who must comply with the pay transparency requirements?

The pay transparency requirements apply to any person or entity that employs 30 or more employees at one or more sites in Minnesota.

What must be included in job postings?

Covered employers must disclose in each posting for each job opening the starting salary range, and a general description of all benefits available and other compensation to be offered to a hired applicant. This could include health insurance, retirement options, bonuses, or other financial perks that come with the position.

"Salary range" means the minimum and maximum annual salary or hourly range of compensation for a job opportunity at the time of the posting of an advertisement for that job opportunity. Salary ranges can be based on the employer's good faith estimate but must not be open-ended. An employer that does not plan to offer a salary range for a position must list the fixed pay rate.

What is a "posting"?

A job posting means anything intended to recruit job applicants for a specific available position. This could include recruiting done directly by the employer or indirectly through a third party. It includes postings made electronically or via printed hard copy.

Employer Take away: Minnesota employers should review their current pay rates, hiring practices, and job postings in anticipation of the January 1, 2025, effective date.



State Minimum Wage Increase – Jan 1, 2026

On January 1, 2026, Missouri's minimum wage will increase to \$15 per hour. The tipped employee base wage will increase to \$7.50 per hour. Retail and service employers with less than \$500,000 in gross annual business are exempt from the state minimum wage, but still need to pay at least the federal minimum wage.

Reminder: State Legislature Repeals State's Paid Sick Leave - Eff Aug 28, 2025

Update: State Legislature Repeals State's Paid Sick Leave - Eff Aug 28, 2025

The Missouri Senate has passed a bill to repeal that new paid sick leave law less than a month after it went into effect, and Gov. Mike Kehoe has supported the repeal bill, meaning he will almost certainly sign it into law in the near future.

The state's sick leave law will remain in effect until August 28, 2025. Until that time, employers must still allow employees to earn one hour of paid sick leave for every 30 hours worked and to use paid sick leave if they or a covered family member have an illness, injury, or health condition, require medical care, treatment, or preventative medical treatment, if their place of employment or their child's school has been ordered closed due to a public health emergency, or if they need to be absent to attend to matters relating to domestic violence, sexual assault, or stalking.

After August 28? That decision is up to employers.

Missouri had no paid sick leave requirement before May 1 and will not have any requirement after August 28. While employers may still honor the sick leave accrued during the law's brief effective period, they will not be required to allow employees to accrue additional paid sick leave after that date. Further, there appears to be nothing to prevent employers from revoking accrued but unused paid sick leave after August 28.

Update & Reminder: Upcoming State Earned (Paid) Sick Leave – April 15 & May 1, 2025

UPDATE: On March 13, 2025, the Missouri House of Representatives passed a bill (HB 567) that, if enacted, would repeal the paid sick leave requirement and delay the minimum wage increase. We will continue to follow and provide updates.

The state of Missouri has issued [FAQs](#) for the upcoming state's enacted earned sick leave requirements in response to Ballot initiative [Proposition A](#) which was approved November 5, 2024. As a reminder, the effective date of this new private employer requirement is May 1.

- Employees will start accruing 1 hour for every 30 hours worked at that time.
- The state will be releasing a workplace Notice and must post this notice by **April 15, 2025**. ETC will monitor and advise once the poster is released.
- ETC will release a State Handbook Addendum inclusive of the new required workplace policy in advance on May 1.

Key Provisions:

Application

The EPST law applies to employers of all sizes and most Missouri employees. However, the law contains some unique employee exemptions, including for employees of retail or services businesses with less than \$500,000 of annual gross sales.

Accrual, Carryover, and Frontloading

Employees will accrue EPST at a rate of one hour for every 30 hours worked starting May 1, 2025, or upon hire—whichever is later. Employers can calculate exempt employees' accrual based on a 40-hour workweek (even if employees generally work more than that) or their usual number of hours if they regularly work less than 40 hours.



Instead of using an hour-by-hour accrual system, employers can frontload the full amount of EPST that an employee is expected to accrue for immediate use at the beginning of each year.

Up to 80 hours of unused accrued EPST may be carried over from year to year. Frontloading EPST does not eliminate the carryover requirement. Rather, employers can only avoid carryover if they pay employees for their accrued but unused EPST (up to a maximum of 80 hours) at year-end *and* provide a lump sum of their full amount of EPST for immediate use at the beginning of the new benefit year.

Use

Employers with 14 or fewer employees can cap employees' use at 40 hours of EPST per year, while those with 15 or more employees can cap employees' use at 56 hours per year.

Employees can use EPST as soon as it's accrued for the following reasons:

- Their own or their family member's mental or physical illness, injury, or health condition, including preventive medical care
- The closure of their workplace or their child's school or place of care because of a public health emergency
- To care for themselves or a family member because of a determination of exposure to a communicable disease
- Certain covered reasons related to domestic abuse, sexual assault, or stalking of the employee or their family member

EPST needs to be provided in the smallest increment of time tracked by the employer's payroll system (but not more than one hour) and paid at the employee's hourly rate of pay or minimum wage, whichever is greater. For exempt employees, the hourly rate of pay is calculated by dividing the wages they earned by the number of hours worked in the previous pay period.

As is standard with sick leave laws, employers can't require that employees find their own coverage or deny them use of EPST if a replacement worker can't be found.

Documentation

When employees use EPST for three or more consecutive workdays, employers can request reasonable documentation that the leave was used for a covered purpose.

Notice

Employers must give employees notice about their EPST rights by April 15, 2025, or within 14 calendar days of hire, whichever is later. The notice must include the following information (in at least 14-point font):

- Beginning May 1, 2025, employees are entitled to accrue EPST at the rate of one hour for every 30 hours of work and may use EPST subject to the limits and terms of the law
- Employers can't take retaliatory action against employees who request or use EPST
- Employees' rights to bring a civil action in certain circumstances
- Contact information for the Missouri Department of Labor and Industrial Relations (DOL)

Additionally, employers must display a poster that contains this information in a conspicuous and accessible place for employees *if* the state has created one. We're hoping the state will release a model notice and poster in the near future.

Payout

Employers aren't required to pay out unused EPST when an employee quits or is terminated. However, employees who are rehired within nine months of separation must have their previously unused EPST restored.

More Information

The Missouri DOL has released [FAQs](#) on its website.

Reminder: State Earned (Paid) Sick Leave – May 1, 2025

The state of Missouri has issued [FAQs](#) for the upcoming state's enacted earned sick leave requirements in response to Ballot initiative [Proposition A](#) which was approved November 5, 2024.



- As a reminder, the effective date of this new private employer requirement is May 1.
- Employees will start accruing 1 hour for every 30 hours worked at that time.
- The state will be releasing a workplace Notice and must post this notice by April 15, 2025. ETC will monitor and advise once the poster is released.
- Additionally, ETC will release a State Handbook Addendum inclusive of the new required workplace policy in advance on May 1.

State Passes Paid Sick Leave Initiative – Spring 2025

On Nov. 5, 2024, voters in Missouri passed [Proposition A](#), a ballot initiative requiring employers to provide employees with earned paid sick time (EPST). (Note that the Missouri election results are unofficial until they have been certified in accordance with state law, which may not happen until Dec. 10, 2024.)

The annual leave amount for larger employers is 56 hours; for smaller employers, the amount is only 40 hours.

April 15, 2025 - Employers must provide notice of the law to employees.

May 1, 2025 - Workers may accrue and use earned paid sick time.

Details included in the attached resource and will also be communicated in advance of the effective date.

Montana

State Minimum Wage Increase – Jan 1, 2026

On January 1, 2026, Montana's minimum wage will increase to \$10.85 per hour. Employers with annual gross sales of \$110,000 or less can pay the federal minimum wage.

State Adds Protections for Volunteer Firefighters and EMTs – Eff Oct 1, 2025

[MT H 128](#) was signed by the governor on April 16, 2025. Beginning October 1, 2025, employers of all sizes will be prohibited from terminating employees because they're volunteer emergency services providers.

Employers will also be prohibited from terminating employees when they're late to work or absent due to acting in that capacity. A *volunteer emergency services provider* means a volunteer firefighter or volunteer medical technician.

Employers can decide whether an employee is allowed to leave work to respond to an emergency if they've already started their workday. Additionally, employers can require employees to request and receive permission to be late or absent if their absence would pose a risk to public safety or prevent the employer from performing an essential function. Employers don't need to extend these protections to employees in their probationary period but certainly *can* in the interest of public safety.

Employers can require notice that an employee is a volunteer emergency service provider and can also request a note from the employee's emergency response supervisor that they missed work during a given day and time due to service.

ETC is releasing an updated State Handbook Addendum to address this new state change alongside the Aug/Sept HR WIRE.

State Expands Protections for Elected Officials – Retro Effective Date Jan 1, 2025

Montana employers now can't prohibit or restrict an employee from seeking public office or discriminate against them for doing so. Additionally, employees can't be required to use employer-provided benefits (e.g., PTO) or perform any work while they're on leave as an elected official.

During an employee's leave, employers need to continue providing healthcare coverage and allow them to keep using employer-provided phones, phone numbers, and computers.



This law was made retroactively effective to January 1, 2025.

Employer Takeaway: Employers having an elected official leave policy should update their policy. ETC's State Handbook Addendum does not address elected official leave

Nebraska

State Minimum Wage Increase – Jan 1, 2026

On January 1, 2026, Nebraska's minimum wage will increase to \$15 per hour. The minimum base wage for tipped employees remains the same at \$2.13 per hour. Nebraska's minimum wage law covers employers with four or more employees, not counting seasonal employees who work for 20 weeks or less in a calendar year.

State Amends Paid Sick Leave Regulations – Eff Sept 15 (Notices) & Oct 1

Nebraska has enacted [Legislative Bill \(LB\) 415](#), amending its paid sick leave law, the [Nebraska Healthy Families and Workplaces Act](#).

On June 4, 2025, amendments were enacted.

The leave measure was passed by ballot initiative last November and takes effect Oct. 1, 2025, with a Sept. 15 deadline for employer notice requirements.

The amendments:

- carve out an exception from the law for employers with 10 employees or fewer,
- exempt certain workers from coverage,
- remove workers' private right of action for employer violations and
- make other employer-friendly changes, discussed below.

Changes to Covered Employers and Employees

The amendments change the paid sick leave law so that it applies only to employers with 11 or more employees. Employers with fewer workers are, therefore, exempt from the requirement.

LB 415 additionally creates exceptions from the law's definition of "employee" for individual owner-operators, independent contractors, seasonal or temporary agricultural workers, and workers under 16.

Changes to Accrual and Carryover of Leave

The law allows employees to accrue and use 40 hours of paid sick time annually if they work for an employer with (as amended) between 11 and 19 employees and 56 hours of annual paid sick time if their employer has more employees.

Under the amendments, employees will not begin accruing paid sick leave until they have worked for their employer for 80 hours.

In two changes favoring employers with paid leave policies, LB 415 first stipulates that any paid sick time provided between Jan. 1, 2025, and Oct. 1, 2025, will count toward an employer's leave obligation for 2025.

Second, employers with their own paid leave policies will be exempt from the law's requirement that employees be allowed to carry their accrued paid sick leave into the following year. For this exemption to apply, however, the employer leave policy must otherwise satisfy the requirements of the paid sick leave law.

In advance of the effective date, ETC will release the applicable State Handbook addendum.

State's New Earned Paid Sick Time Requirement – Eff Sept 15 & Oct 1, 2025

On Nov. 5, 2024, Nebraska voters passed the [Nebraska Healthy Families and Workplaces Act](#) via ballot initiative, joining the growing number of states that have already enacted paid sick leave laws.

The law requires employers to provide 40-56 hours of earned paid sick time (EPST) per year, depending on their size. Employers must provide their employees with written notice of the law **by Sept. 15, 2025**, and employees begin accruing and using EPST **Oct. 1, 2025**.

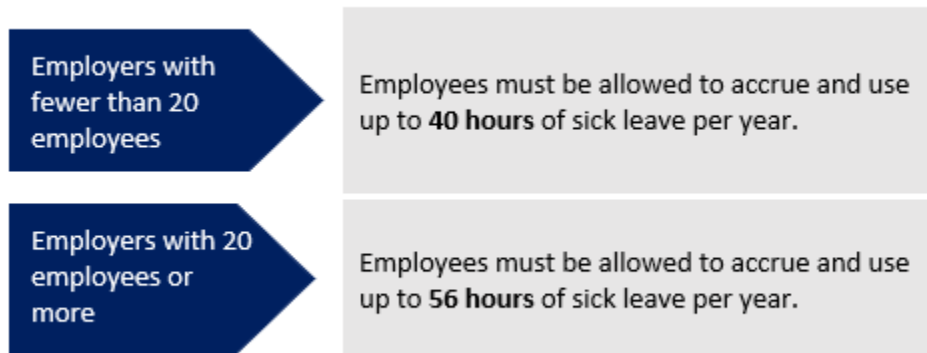
Covered Employer



All employers are covered by the law, except the governments of the United States and the state of Nebraska and its agencies, departments and political subdivisions.

Eligible Employees

Employees who work in Nebraska for at least **80 hours** in a calendar year are eligible for EPST, except railroad employees subject to the federal Railroad Unemployment Insurance Act.



Key provisions of the Act include that:

- The law contains front-loading and carryover provisions;
- There is no waiting period—leave may be used as it is accrued;
- EPST may be used for an employee's or a family member's health, to attend meetings related to a child's health, and during public health emergencies;
- Employers may require notice of leave if the requirement is included in a written policy;
- Employers may require reasonable documentation for more than three days of EPST;
- Employers with paid leave policies that meet the requirements of the law do not have to provide additional paid sick leave;
- Notice and recordkeeping provisions apply;
- There is no payout requirement for accrued, unused EPST; and
- Retaliation is prohibited, and employer violations of the law are subject to administrative penalties and civil suits.

Closer to the effective date ETC will provide the released Notice and State Handbook Addendum with the applicable Paid Sick Leave Policy.

State Enacts Paid Sick Leave – **Fall 2025**

On Nov. 5, 2024, Nebraska voters passed [Initiative Measure 436](#), known as the Nebraska Healthy Families and Workplaces Act; the new law requires employers to provide 40-56 hours of paid sick time per year, depending on their size. Eligible employees can begin taking paid sick leave under the law **Oct. 1, 2025**.

Sept. 15, 2025 - Notice requirements take effect under the new paid sick time law.

Oct. 1, 2025 - Employees may begin taking paid sick time.

Details included in the attached resource and will also be communicated in advance of the effective date.

Nevada

State Requires Civil Air Patrol Leave – **Eff Oct 1, 2025**

Beginning October 1, 2025, employers of all sizes will be required to provide unpaid leave to employees who are volunteer members of the Nevada Wing of the Civil Air Patrol for emergency training and response under [AB 422](#).



Specifically, employees will be allowed to take the following amounts of leave per federal fiscal year (October 1 through September 30):

- Up to 10 workdays to train for emergency missions
- Up to 30 workdays to respond to an emergency mission (including search and rescue and disaster response missions)

Employers can't require that employees exhaust other leave they are entitled to before using leave under this law.

State Restricts Working Hours for 16 to 18 Year Olds – Eff Oct 1, 2025

As of October 1, 2025, employees aged 16–18 who are enrolled in a public or private high school and who aren't

emancipated will generally be prohibited from working between 11 p.m. and 6 a.m. on school nights under [AB 215](#).

This restriction doesn't apply to certain occupations, such as lifeguards, arcade employees, stage or theatrical performers, or farm workers. Additionally, a school district, the governing body of the high school, or a juvenile court can grant an exemption if it determines that it's in the best interest of the minor.

State's Employee Savings Trust Retirement Program Enacted – Eff July 1, 2025

On June 13, 2023, Nevada enacted the Nevada Employee Savings Trust program, establishing a state-run payroll deduction individual retirement account (IRA) program for eligible private sector employees who do not have access to a qualified employer-sponsored retirement plan.

The program is scheduled to be operational on **July 1, 2025**, and is mandatory for private sector employers with six or more employees. Employers that provide a qualified retirement plan may submit an exemption to the state.

Details are available in the [NV S 305](#) legislative text, and a program summary can be found on the State-Facilitated Retirement Programs page.

Updated Guidance Released: State Heat Illness Prevention Rule – Enforced April 29, 2025

The Nevada Division of Industrial Relations (DIR) of the Department of Business and Industry adopted a heat illness [regulation](#). This regulation went into effect on Nov. 15, 2024.

Businesses with more than 10 employees must implement the following:

- Job hazard analysis;
- Written safety program;
- Emergency procedures;
- Training;
- Climate-controlled environment exemptions;
- Collective bargaining agreements.

Resources:

- Nevada Heat Illness Prevention [Rules](#)
- Nevada's [Guidance](#) on its Heat Prevention Rules

State Approves New Heat Illness Regulation – Nov 15, 2025 & Enforcement + 90 days

On Nov. 15, 2024, the Nevada Division of Industrial Relations (DIR) of the Department of Business and Industry adopted a new heat illness [regulation](#) due to the increase in heat illness complaints submitted to Nevada OSHA. This regulation went into effect on Nov. 15, 2024.



The new regulation applies to businesses with 10 or more employees. It provides flexibility for each business to evaluate workplace hazards associated with heat to develop and implement a plan that addresses their specific needs. Enforcement of the regulation will start 90 days from when the DIR publishes additional guidance on the heat illness regulation.

Employer Obligations Include:

- Written Safety Program
- Emergency Procedures
- Training

Employer Takeaway: The enforcement date is said to start 90 days from the date the additional guidance is published. Employers should review the requirements of the new regulation to understand what is necessary to protect their employees from heat illness. Employers should perform a JHA to determine what heat illness hazards they have, create and implement a workplace safety program for those heat-related hazards, implement emergency procedures and train their employees on the hazards they have found.

Updated Minimum Wage Increase – July 1

Beginning July 1, 2024, the hourly minimum wage in Nevada will increase to \$12 for *all employers*.

As of that date, the tiered minimum wage rates currently allowed by the state based on whether employers offer qualifying health benefits will be eliminated, and a single minimum wage rate will apply to all employers.

New Hampshire

State Provides Protections for Military Spouses – Eff Jan 1, 2026

Beginning January 1, 2026, employers with 50 or more employees at the same location in New Hampshire will need to provide certain protections for military spouses under [NH H 225](#). Specifically, the spouses of servicemembers who have been called into action will be protected from employment discrimination and will have reemployment rights within certain timeframes. ETC will provide an updated State Handbook Addendum to address these changes.

State Creates Leave for Childbirth and Postpartum Care – Eff Jan 1, 2026

Beginning January 1, 2026, New Hampshire employers with 20 or more employees will need to provide up to 25 hours of job-protected, unpaid leave to employees for certain baby-related medical appointments under [HB 2](#).

Employees can use the leave for:

- Their own medical appointments for childbirth (the law doesn't define *for childbirth*, but we assume this includes appointments to prepare for it, as well)
 - Their own postpartum care
 - Their child's pediatric medical appointments within the first year of their child's birth or adoption
- If both parents work for the same employer, they can share the 25-hour entitlement for the child's medical appointments. Employees can use accrued vacation or other paid leave to substitute for the unpaid leave time.

With the December HR WIRE publication, an updated NH State Handbook Addendum will be published inclusive of new policy language.

State Adds Lactation Protections – Eff July 1, 2025



Starting July 1, 2025, employers with six or more employees *in New Hampshire* will be required to provide employees with certain lactation accommodations unless doing so would be an undue hardship (i.e., a *significant* difficulty or expense).

- **Lactation Space**

Employers need to provide a space that's within a reasonable walking distance of the employee's worksite, unless the employee and employer agree to a different location.

- If feasible, the space needs to include an electrical outlet and a chair. It must also (and we hope this didn't need saying) be clean.
- If the space isn't designated for lactation full time, it needs to be accessible to employees whenever they request it.

Lactation Policy

Employers will need to adopt a policy that notifies employees about their lactation rights and make it available to employees upon hire, if an employer doesn't already have such a policy. ETC released an updated State Handbook Addendum June 2025.

State Prohibits Hairstyle Discrimination – Sept 1, 2024

New Hampshire law will prohibit employers of all sizes from discriminating against applicants and employees based on their protective hairstyle. Protective hairstyles are defined as hair type or style, including braids, locs, tight coils or curls, cornrows, Bantu knots, Afros, twists, and head wraps. [NH H 1169](#) was signed by the governor on July 3, 2024.

Employer Takeaways:

- Employers that have dress or grooming policies that regulate hairstyles should consider whether those policies are truly necessary for the organization.
- Employers should review policies to ensure your equal employment opportunity (EEO) policies to include protective hairstyles

State Adds Protections for Volunteer Firefighters and EMTs – Aug 2024

Effective August 13, 2024, employers of all sizes will be prohibited from taking adverse action against volunteer firefighters and emergency medical technicians (EMTs) for reporting late to work because they are responding, in their official capacity, to an emergency they come across or witness while heading to work. Employers are not required to compensate nonexempt employees for the time missed.

Guns in Trunks State Regulation – Jan 1, 2025

Starting January 1, 2025, employers of all sizes will be subject to new limitations with respect to firearms stored in employees' personal vehicles. Specifically, *all* employers can't:

- Require that employees disclose whether there is a firearm or ammunition in their vehicle
- Search an employee's vehicle for a firearm or ammunition

Additionally, employers *that are state or federal government contractors* can't prohibit employees from storing a firearm or ammunition in their vehicle on the employer's property if the employee can legally possess a firearm, the vehicle is locked, and the firearm or ammunition isn't visible. [HB 1201](#) and [HB1336](#) were signed by the governor on July 12, 2024.

New Jersey

State Increases Minimum Wage – Eff Jan 1, 2026

On January 1, 2026, the minimum hourly wages in New Jersey will increase as follows:



- For most employers and employees: \$15.92
- For tipped employees: \$6.05 as a *base wage* (tips must bring them to \$15.92)
- For seasonal and small employers (those with five or fewer employees): \$15.23
- For agricultural employers: \$14.20
- For employees who provide direct care at a long-term care facility: \$18.92

State Bans Mandatory Employee Meetings – Eff Dec 2, 2025

New Jersey Governor Phil Murphy signed into law significant amendments to the New Jersey Employer Political Communication Restrictions Act (the “Act”) on September 3, 2025. These amendments, which take effect on December 2, 2025, make New Jersey one of 12 states in the nation to prohibit employers from holding mandatory, captive audience meetings to discuss **unionization with employees**. Additionally, once the Act goes into effect, employers must post a notice of employee rights under the Act in conspicuous locations frequented by employees.

Employers’ Use of AI Tools Must Comply With New Jersey’s Law Against Discrimination

New Jersey has not yet implemented legislation directly governing the use of AI tools in employment practices. But, earlier this month, New Jersey Attorney General Matthew J. Platkin announced that the Division on Civil Rights (“DCR”) had launched a new Civil Rights and Technology initiative to address the risks of discrimination created by the use of artificial intelligence (“AI”) and automated decision-making tools in the workplace.

In conjunction with this initiative, the New Jersey Office of the Attorney General and the DCR jointly published a [Guidance Memorandum](#) to explain how the New Jersey Law Against Discrimination (“LAD”) applies in the face of an advancing technological landscape.

Employer Takeaway: To avoid liability, employers should carefully vet their technology vendors and familiarize themselves with the tools that they have implemented. Asking questions and maintaining human oversight over these tools will be critical to avoid discriminatory outcomes and ward off potential claims.

New Jersey Family and Disability Insurance Leave Rates to Increase - 2025

New Jersey has increased its temporary disability insurance (TDI) and family leave insurance (FLI) contribution rates for 2025

- **2025 TDI Contribution Rate** - The TDI contribution rate for workers will be 0.23% of employee wages in 2025.
- **2025 FLI Contribution Rate** - The FLI employee contribution rate will be 0.33% of wages in 2025.

The “Notice of Employer Contribution Rates” for fiscal year 2024-25 is now available for download via [Employer Access](#).

Expanded Pay Transparency Regulations – June 1, 2025

A bill signed into effect by Governor Murphy this month ([Senate Bill 2310](#)) will only add to employers’ obligations. Starting June 1, 2025, the new law will require you to disclose certain compensation and benefits information in job listings and for promotional opportunities.

- **Currently**, New Jersey employers are prohibited from discriminating against or discharging an employee for exercising their rights under the law, including requesting, discussing, or disclosing pay-related information. Additionally, New Jersey employers cannot ask job applicants about their salary history.
- **New Legislation** will require pay transparency for both promotional opportunities and employment listings. The requirements will apply to New Jersey employers with 10 or more employees over 20 calendar weeks that do business, employ workers, or take applications for employment in the state. Employers will need to disclose the hourly wage or salary (or range) and a general description of benefits and other compensation programs for which the employee would be eligible. This information is to be in each posting for a new job, as well as transfer opportunities that are advertised externally or internally.



Job Postings

Employers will need to include the hourly wage or salary (or a range) and a general description of benefits and other compensation in job postings. This applies to internal postings as well, such as those for transfer opportunities.

Promotion Opportunities

Before making promotion decisions, employers need to make reasonable efforts to notify employees in the affected departments about promotion opportunities that have been advertised, either internally or externally. A **promotion** is defined as a change in job title *and* an increase in compensation.

Promotions that are awarded based on years of experience or performance (which generally wouldn't be advertised), as well as those that are required immediately due to unforeseen circumstances (such as the sudden departure of a team manager), are exempt from these notification requirements.

The New Jersey Department of Labor (NJ DOL) has now provided interpretative guidance on the new law in an [FAQ](#).

Upcoming Deadlines for RetireReady NJ - Sept & Nov 2024

Employers that are required to participate in New Jersey's state-facilitated individual retirement account (IRA) savings program—known as [RetireReady NJ](#)—**must register or certify an exemption this Fall**. To learn more access the September HR WIRE.

- Sept. 15, 2024 - Employers with 40 or more employees must register by this date.
- Nov. 15, 2024 - Employers with 25-39 employees must register by this date.

State's Secure Choice Retirement Savings Program Operational on June 30, 2024

Beginning June 30, 2024, the New Jersey Secure Choice Retirement Savings Program will be accepting registration for private employers with 25 or more employees. The state will notify employers with instructions and deadlines to register for or certify exemption from the program. The implementation deadlines are:

- **September 15, 2024**, for covered employers with 40 or more employees; and
- **November 15, 2024**, for covered employers with 25 to 39 employees.

Details can be found on the [New Jersey Secure Choice Retirement Savings Program](#) page.

State Issues FAQs on Family Leave Act

Enacted in 1989, the NJFLA applies to private employers with 30 or more employees worldwide and to state and local government agencies.

The New Jersey Division on Civil Rights has published [answers to frequently asked questions](#) (FAQs) about the New Jersey Family Leave Act (NJFLA). According to the division, the guidance is intended to facilitate compliance with the NJFLA by clarifying and explaining the division's understanding of the law's requirements. The FAQs do not impose any new requirements, rights or obligations that are not included in the NJFLA.

New York

"Trapped at Work Act" Prohibits Employers from Requiring Certain Repayments for Early Separations

On Dec. 19, New York Gov. Kathy Hochul signed into law [Assembly Bill A584C](#), known as the "Trapped at Work Act," which took effect immediately and amends the New York Labor Law to prohibit the use of certain "stay-or-pay" agreements that require workers to pay their employer if they leave their job before a specified date.

Prohibition of Employment Promissory Notes



The Trapped at Work Act (which adds Article 37, N.Y. Lab. Law §§ 1050–55) prohibits employers from requiring workers or prospective workers to execute an employment promissory note as a condition of employment.

Employment promissory notes are defined to include any agreement that requires the worker to repay a sum to the employer if the worker leaves before a stated time. The statutory definition explicitly identifies training reimbursement agreements as covered but is not limited to such arrangements. The law applies to employees, independent contractors, interns and volunteers. It characterizes employment promissory notes as “unconscionable, against public policy, and unenforceable,” because such repayment agreements may have the effect of “trapping” workers in undesirable work environments they would otherwise leave.

Exceptions

The law does **not apply** to agreements that require the repayment of “any sums advanced to such worker” (provided that sums are not advanced to pay for training), among other limited exceptions.

Although the exact meaning of this language is somewhat unclear, “any sums advanced to such worker by the employer” appears to be broader than traditional advances of salary or wages. Thus, the statute appears to permit repayment agreements related to any sum paid to the employee, including sign-on bonuses, unless the money is intended for training. Regulations to be promulgated by the New York Department of Labor may clarify this exception. The law also excludes agreements that require payment for any property sold or leased by the employer to the worker, agreements that require education personnel to comply with the terms and conditions of sabbatical leaves, and agreements entered into as part of a collective bargaining agreement.

Gov. Hochul’s approval memorandum explains that “[t]raining repayment agreement provisions (‘TRAPS’) and other forms of stay-or-pay contracts force employees to stay in jobs they do not want under threat of financial penalties.” She notes the law’s ambiguity, however, and says it is not intended to prohibit “certain voluntary tuition assistance programs that provide real benefits to their participants.” The memorandum adds that there is an agreement with the legislature to address these concerns in the upcoming legislative session.

Employer Take Away: New York employers should be cautious when requiring workers to make any repayments because of early departure/separation from the organization as violations carry fines of up to \$5,000 for each worker/prospective worker required to execute a prohibited agreement.

NYC Enacts New Pay Data Reporting Requirements-Employer Obligations Years Away

On Dec. 4, 2025, New York City enacted two pay data reporting laws, one that requires covered employers to submit annual pay data reports and another that commissions a study of the data to determine pay disparities. The new laws went into effect immediately.

Overview of Pay Data Reporting Requirements

By Dec. 4, 2026, New York City’s mayor must designate an agency to collect pay data information and conduct a pay equity study. Within one year after its designation, the agency must develop a form for covered employers to submit pay reports.

Within one year of the form’s publication, and annually thereafter, private employers with **200 or more employees** in New York City must submit a pay report to the designated agency. The pay report must include the information required by the federal EEO-1 Component 2 report for 2017 and 2018 (i.e., pay data by sex, race and ethnicity in 12 different pay bands). However, the agency may modify the form; for example, it may include options for different gender identities. Such information may be submitted anonymously, but employers must include a signed statement confirming the submission’s accuracy. Employers may also include explanatory remarks regarding the data. Employers are not required to include an employee’s personal information.

Within one year of the submission of pay data and annually thereafter, the agency must conduct a pay equity study to determine any pay disparities based on gender, race or ethnicity and identify industries with prevalent disparities.



Penalties

Employers who violate the law will be subject to a written warning for a first violation if cured within 30 days, a civil penalty of \$1,000 for a first violation that is not timely cured, and a civil penalty of \$5,000 for each subsequent offense.

ETC will continue to monitor and provide updates.

State to Institute Workplace Violence Prevention Program Requirements for Hospitals & Nursing Homes

New York State has mandated new workplace violence compliance standards with Governor Hochul's December 12th signing of [Senate Bill S5294A](#) into law which will require hospitals and nursing homes to implement comprehensive workplace violence prevention plans (WPVPP). The new law applies to general hospitals and nursing homes regulated under New York's Public Health Law and includes employee training to identify, prevent, and mitigate workplace violence. The law takes effect 280 days after enactment, giving facilities less than a year to establish programs.

Reminder: State Increases Minimum Wage – Eff Jan 1, 2026

The following changes to the minimum wage and salary thresholds apply as of January 1, 2026.

New York City and Suffolk, Nassau, and Westchester Counties

The minimum wage will increase to \$17.00 per hour.

Industry-specific hourly minimum wages will increase as follows:

- Tipped hospitality service workers: \$14.15
- Tipped hospitality food service workers: \$11.35
- Home care aides: \$19.65

The **minimum salary threshold for exempt executive and administrative** employees will increase to \$1,275 per week (\$66,300 annually).

The Rest of New York State

The minimum wage in the remainder of New York State (all areas outside of New York City, and Suffolk, Nassau, and Westchester counties) will increase to \$16.00 per hour.

Industry-specific hourly minimum wages will increase as follows:

- Tipped hospitality service workers: \$13.30
- Tipped hospitality food service workers: \$10.70
- Home care aides: \$18.65

The **minimum salary threshold for exempt executive and administrative** employees will increase to \$1,199.10 per week (\$62,353.20 annually).

State Increases Minimum Wage – Eff Jan 1, 2026

The minimum wage rate in New York will increase to \$17.00 per hour for downstate employees and to \$16.00 per hour for upstate employees.

The increases to the minimum wage will also impact tip credits and cash wages paid to tipped employees. As a reminder, as defined in the New York Minimum Wage Act, a "food service worker" is any employee primarily engaged in the serving of food or beverages to guests, patrons or customers in the hotel and restaurant industries ... who regularly receive tips from such guests, patrons or customers" and who satisfied New York's 80/20 rule. Accordingly, in New York, the minimum wage and minimum cash wage for tipped food service workers will increase as follows:

New York City, Long Island & Westchester County



	Current Rate	New Rate Effective Jan. 1, 2026
Minimum Wage	\$16.50	\$17.00
Minimum Overtime Rate	\$24.75	\$25.50
Cash Wage to Tipped Food Service Workers	\$11.00	\$11.35
Overtime Wage to Tipped Food Service Workers	\$19.25	\$19.85
Tip Credit for Food Service Workers	\$5.50	\$5.65

Remainder of New York State

	Current Rate	New Rate Effective Jan. 1, 2026
Minimum Wage	\$15.50	\$16.00
Minimum Overtime Rate	\$23.25	\$24.00
Cash Wage to Tipped Food Service Workers	\$10.35	\$10.70
Overtime Wage to Tipped Food Service Workers	\$18.10	\$18.70
Tip Credit for Food Service Workers	\$5.15	\$5.30

If an employer maintains a written tip pool or tip sharing agreement, the above changes must be reflected in those agreements. Employers must revise any written tip pool or tip sharing agreements as well as any handbooks that reflect the prior minimum wage, cash wage, and tip credit to reflect the new rates above.

New York PFL Contribution and Benefit Rates to Increase in 2026 – Jan 1, 2026

As in line with past years, New York state has published paid family leave (PFL) updates for 2026 on its [website](#) for the program. Both the employee contribution rate and the maximum weekly benefit for the program will see increases over



the rates for 2025. New York PFL is fully funded by employees through payroll deductions. Employers are not required to contribute.

Employee compensation for PFL is 67% of the employee's average weekly wage, up to a cap of 67% of the current New York state average weekly wage (SAWW). The 2026 state average weekly wage has been calculated as \$1,833.63, making the maximum weekly benefit for 2026 **\$1,228.53**, up from \$1,177.32 in 2025. The total possible maximum benefit to an employee is **\$14,742.36** in 2026.

Reminder

Paid Family and Medical Leave

New York's PFL law provides eligible employees with up to 12 weeks of PFL. PFL coverage is typically added as a rider on an employer's existing disability insurance policy. Leave may be used for:

- Caring for a family member with a serious health condition;
- Birth, adoption or fostering of a child; or
- A spouse's, domestic partner's, child's or parent's active military duty or impending active military duty.

NYC Expands Scheduling & Workplace Protections for Service and Delivery Workers

Recent legislative updates have strengthened scheduling rights for retail and fast-food workers under the City's Fair Workweek Law and introduced new safeguards for app based and grocery delivery workers. Employers operating in these sectors should carefully review their scheduling and pay practices, as noncompliance can result in substantial penalties and enforcement actions.

Fair Workweek Requirements

New York City's Fair Workweek Law—part of a growing national trend toward predictable scheduling—has a stated aim of providing service sector workers more stable and transparent work hours. The law applies separately to fast food and retail employers, each with specific obligations.

Retail Employers

Retail employers must:

- Provide work schedules at least 72 hours in advance, both posted at the workplace and distributed to employees via personal message or push notification on a scheduling app.
- Obtain written employee consent to add or cancel shifts within 72 hours of a shift start.
- Avoid on call scheduling, which is prohibited under the law.
- Pay fines of up to \$300 per affected employee, with higher penalties for repeat violations.

To read more, including delivery driver implications, access the October 28th article from Bond Schoeneck & Kind Attorneys [HERE](#)

NYC Updates 2026 Earned Safe and Sick Time Act (ETTS) – Feb 22, 2026

On September 25, 2025, the New York City Council passed significant amendments to the New York City Earned Safe and Sick Time Act (ESSTA or the Act).

The amendments make significant changes to the existing ESSTA, as well as the New York City Temporary Schedule Change Act (TSCA). A brief summary of some of the key changes include: recognition of additional, new qualifying reasons for use of ESSTA sick/safe leave related to child care, caregiving, workplace violence, subsistence benefits or



housing and public disasters, as well as a new obligation for employers to provide additional unpaid sick time and changes related to the alignment of the TSCA with the ESSTA.

The ESSTA requires covered employers to provide sick/safe leave to employees. The amount and nature of the sick/safe leave that must be provided depends on employer size. Employers with 100 or more employees must provide up to 56 hours of paid sick/safe leave each year; employers with five to 99 employees or employers with four or fewer employees and a net income of \$1 million or more must provide up to 40 hours of paid sick/safe leave each year; and employers with four or fewer employees and a net income of less than \$1 million must provide up to 40 hours of unpaid sick/safe leave each year. Employees with one to 99 domestic worker(s) must also provide 40 hours of paid sick/safe leave each year. Employees must accrue sick/safe leave at a rate of at least 1 hour for every 30 hours worked, but an employer may choose to front-load the sick/safe leave each year.

Recently, the ESSTA was also amended to require employers of any size or net income to provide a separate bank of 20 hours of paid prenatal leave in a 52-week period.

Under the sick/safe leave provisions of the ESSTA, employees may currently use accrued sick/safe leave for the employee's own care, treatment or medical care, or to care for a qualifying family member (including treatment or medical care of the family member), for the closure of the employer's place of business or the employee's need to care for a child whose child care provider has closed due to a public health emergency, as well as to seek assistance (including legal or social services) or take other measures related to domestic violence, sexual offenses, stalking or human trafficking when the employee or the employee's family member is a victim of domestic violence, unwanted sexual contact, stalking or human trafficking.

Expanded uses: In addition to the current list of qualifying reasons for use of sick/safe leave under the ESSTA briefly summarized above, the amendments allow employees to take available sick/safe leave under ESSTA for additional recognized reasons including:

- **Public Disaster** – Employees may use ESSTA leave for a public disaster, defined as a “fire, explosion, terrorist attack, severe weather conditions or other catastrophe that is declared a public emergency or disaster by the president of the United States, the governor of the State of New York, or the mayor of the City of New York.” This also includes direction by a public official to remain indoors or avoid travel during a public disaster that prevents an employee from reporting to their work location.
- **Caregiving Responsibilities** – Employees may use ESSTA leave to provide care to a minor child or care recipient when the employee is a caregiver for the minor child or care recipient.
- **Subsistence Benefits/Housing** – Employees may use ESSTA leave to initiate, attend or prepare for a legal proceeding or hearing related to subsistence benefits or housing to which the employee or the employee's family member or care recipient is a party. Leave may also be taken by the employee to take actions necessary to apply for, maintain or restore subsistence benefits or shelter for the employee or their family member or care recipient.
- **Workplace Violence** – Employees may use ESSTA leave for certain reasons, including but not limited to seeking legal or social services, meeting with a district attorney or filing a complaint with law enforcement, related to when the employee or the employee's family member has been the victim of workplace violence. This change specifically adds workplace violence to the “safe leave” provisions of the ESSTA.
- **New Additional Unpaid Sick Time:** The amendments also require employers to provide all employees with an additional thirty-two (32) hours of unpaid sick/safe leave upon hire and on the first day of each benefit year. This leave must be front-loaded, meaning that the full amount must be made immediately available for use and can be used for any qualifying ESSTA purpose. This unpaid ESSTA time does not need to be carried over to the following benefit year.



TSCA: The law effectively realigns the requirements of the TSCA with the ESSTA. Currently, the TSCA entitles employees to request up to two temporary schedule changes each year for qualifying “personal events.” Personal events include the need to care for a minor child or care recipient, the need to attend a legal proceeding or hearing related to public benefits or the employee (or the employee’s family member, minor child or care recipient), or any other reason recognized under the ESSTA. Employers must either grant these temporary schedule change requests or provide the requesting employee with unpaid leave.

The qualifying reasons previously recognized for temporary schedule change requests under the TSCA have been incorporated as protected, qualifying reasons under the ESSTA as explained in greater detail above. Significantly, under these changes, employers will no longer be required to grant an employee’s temporary schedule change request as previously required by the TSCA.

- However, employers must respond to an employee’s request as soon as practicable. Employers may propose an alternative temporary change, but employees are not required to accept such proposed alternatives. Notably, employees may still request such changes and are protected from retaliation for doing so under the TSCA.

Employer Takeaway: ETC will publish an updated State Handbook Addendum addressing needed policy verbiage updates. Employers should also ensure that accruals for paid and unpaid ESSTA leave are tracked and reported on a pay statement or other written documentation provided to the employee each pay period.

In further preparation for compliance, employers should consider providing training to supervisors, managers or human resources professionals that are responsible for attendance enforcement within their organizations

State Passes Regulations Resulting in Mini State Labor Relations Boards

In a significant development, New York enacted [S.8034A](#), a law that would transform its Public Employment Relations Board (PERB) into a mini-National Labor Relations Board (NLRB). Under the new law, PERB would have new authority to resolve unfair labor practices (ULPs), enforce collective bargaining agreements, and certify unions operating in the private sector. By enacting S.8034A, New York signals the state's intent to increase protections for workers while the NLRB continues to operate without a quorum.

Under the National Labor Relations Act ("NLRA") the NLRB has exclusive jurisdiction over virtually all private labor relations matters, which is necessary to ensure there is a single set of national standards governing labor relations for all 50 states. New York’s intrusion into federal labor policy risks undermining these uniform federal standards, creating considerable compliance challenges

New York's expansion of state labor authority introduces uncharted complexities for employers, potentially altering the playing field for labor relations in New York.

State Sunsets Covid-19 Sick Leave – July 31, 2025

After July 31, 2025, New York employers no longer need to provide COVID-19 sick leave and can do away with any applicable policies.

State Increases Jury Duty Pay – Eff June 8, 2025

Beginning June 8, 2025, the daily rate for jury duty in New York state will increase from \$40 to \$72. As was the case before, employers with 11 or more employees must pay employees the daily rate for each of their first three days of jury service. Employees of smaller employers are paid the daily rate by the state. For details on how juror pay works in New York, see [New York’s Jury Duty Information for Employers](#) and this [flowchart](#).

Exempt employees should be paid their full salary unless they’re gone for an entire workweek and do no work at all during that time, though employers can offset the amount the employee receives from the state.



With the May HR WIRE, ETC will release an updated New York State Handbook Addendum reflective of the daily payment increase.

New York City Amends Paid Sick Leave Rule for Prenatal Leave – Eff July 2, 2025

New York City has [amended](#) its rules for the city's Earned Safe and Sick Time Act (ESSTA) to incorporate the **state law paid prenatal leave** requirement that took effect Jan. 1, 2025. The city also issued an updated paid safe and sick time [notice](#) for employer use. Additionally, the city has released updated [FAQs](#). The amendments to the ESSTA rules take effect July 2, 2025.

New York State Prenatal Leave Requirement

On Jan. 1, 2025, New York state began requiring that all employers provide 20 hours of paid prenatal leave per 52-week period under amendments to its sick leave law. Paid prenatal leave must be provided in addition to the 40-56 hours of paid or unpaid (depending on employer size) sick leave the law already requires. Employees do not have to satisfy accrual or waiting period requirements before using paid prenatal leave.

New York City ESSTA

Under the ESSTA, as under the state sick leave law, New York City employers must provide up to 40-56 hours of sick leave. As with the state sick leave law, an employer's size determines how much leave must be provided and whether that leave is paid.

Effective **July 2, 2025**, New York City employers must additionally comply with the amended ESSTA rules, which incorporate the state law requirement that employers provide 20 hours of paid prenatal leave during any 52-week calendar period in addition to the regular sick leave required under the ESSTA.

Beginning July 2, 2025, New York City's (NYC) Earned Safe and Sick Time Act (ESSTA) rules will be amended to address the state's paid prenatal leave (PPL) law, both of which apply to employers of all sizes. Below are some of the key updates to the ESSTA rules that NYC employers need to be aware of.

Pay Statement Notices

Employers need to inform employees who've used PPL of the amount used during the relevant pay period and how much PPL they have remaining. This information can be provided on the employees' pay stubs or other written materials.

Recordkeeping

Employers need to maintain PPL records for each employee, including the date and time the employee used PPL and the amount used during each pay period.

Written Policy

Employers must maintain a written PPL policy and—as with ESSTA—distribute it to new employees upon hire, to all employees within 14 days of any changes to the policy, and upon an employee's request.

New York City Amends Lactation Accommodation Policy – Eff May 8, 2025

In November 2024, New York City (NYC) [amended](#) the lactation accommodation policy provisions of the New York City Human Rights Law (NYCHRL). The amendments, effective **May 8, 2025**, add new posting requirements and align the NYC law with New York State's paid lactation break requirements.

The NYCHRL requires employers with **four or more employees** to provide employees with lactation accommodations, including a lactation room where employees can pump or express breast milk and reasonable time to do so. Employers must also have a written lactation [policy](#) that includes a statement that employees have a right to request a lactation room and identify a process by which employees may request a lactation room.



Paid Lactation Breaks

Under New York State's lactation break law, **all employers** are required to provide employees with **30 minutes of paid break time to pump or express milk** and permit employees to use existing paid break time or meal time for time in excess of 30 minutes. Under the amended law, covered NYC employers must include in their lactation accommodation policies a statement of the right to paid lactation breaks in accordance with the New York state law.

Policy Posting Requirement

Under the amended law, in addition to existing written policy requirements, employers must make the policy available to employees by conspicuously posting the policy at the employer's place of business in an area accessible to employees and electronically on the employer's intranet (if one exists).

Resources:

- [Model Lactation Accommodation Request Form](#)
- [Lactation Accommodations: What NYC Employers Need to Know](#)
- [Pregnancy Discrimination Legal Enforcement Guidance](#)
- Pregnancy Employment Notice: [English](#) [Spanish](#)
[Frequently Asked Questions](#)

ETC published the updated State Handbook Addendum revising NYC applicable policies June 2025.

Upcoming State Retail Workplace-Violence Prevention Obligations - Eff June 2, 2025 & Jan 1, 2027

New York's Retail Worker Safety Act ([A 01678](#)), signed by the governor on February 14. The below provisions will take effect on June 2, 2025:

Employer Policy Requirements

- The law requires employers with 10 or more *retail employees* (defined as those who work in retail stores) to adopt a written workplace violence prevention policy and provide employee training.
- Employers with 500 or more retail employees in the state will also be required to provide silent response buttons. *Retail stores* don't include those that primarily sell food to eat on-site.

Training Program Requirements

Under the Act, workplace violence trainings must be interactive and include the following:

- Information on the requirements of the Act;
- Examples of measures retail employees can use to protect themselves when faced with workplace violence from customers or other co-workers;
- De-escalation tactics;
- Active shooter drills;
- Emergency procedures;
- Instruction on the use of security alarms, panic buttons and other related emergency devices; and
- A site-specific list of emergency exits and meeting places in case of an emergency.

Employers covered under this section employing fewer than 50 retail employees must provide workplace violence prevention training upon hire and once every two years. Those employing 50 or more employees must provide workplace violence prevention training upon hire and then annually thereafter.

Employers must utilize the model NY DOL workplace violence prevention training program or establish one of their own that is equivalent to or exceeds the NY DOL training program requirements. This training must be conducted at the time employees are hired and annually thereafter.



Moreover, the NY DOL will include information in its model training program on supervisor conduct; additional responsibilities for supervisors, such as addressing workplace-specific emergency procedures; and training on areas of previous security problems.

Notice Requirements

Employers with 10 or more retail employees must provide employees with notice of the workplace violence prevention policy upon hiring and at every annual workplace prevention training. Employers covered under this section employing fewer than 50 retail employees must provide workplace violence prevention training upon hire and once every two years. This notice must be in writing and written in English and any other language that each employee identifies as their primary language. Information to be included in the notice is the employer's workplace violence prevention policy and any information provided during the workplace violence prevention training.

Other aspects of the regulations then become effective January 1, 2027, which include silent response buttons for employers with 500 or more retail employees statewide as well as the start of the state's evaluation of the guidance and model materials.

This law was originally scheduled to take effect on March 4, 2025, but has been amended to change some employer requirements and delay the effective date to June. The details below reflect the most recent version of the law.

- Employers will be required to adopt a written workplace violence prevention policy that identifies workplace risks, outlines violence prevention methods, explains legal protections, and states that retaliation is unlawful. The state will provide a model policy that employers can use.
- Employers will be required to provide retail employees with workplace violence prevention training that's interactive and includes information such as emergency procedures, de-escalation tactics, and instructions on how to use emergency devices such as security alarms or silent response buttons. The state will provide a model training program that employers can use. As part of this training, employers must also provide retail employees with a site-specific list of emergency exits and meeting places. The training must be provided upon hire and annually thereafter. However, employers with 49 or fewer retail employees only need to provide the workplace violence prevention training upon hire and every two years thereafter.
- Employers will be required to provide retail employees with the workplace violence prevention policy and the information presented in the training in writing upon hire and at each workplace violence training. They must be provided in English and the employee's primary language.
- By **January 1, 2027**, employers with 500 or more retail employees *in the state* must provide silent response buttons to employees that enable them to request immediate help from a security officer, manager, or supervisor during work. This requirement can be satisfied by installing the button in an easily accessible location in the workplace or providing employees with wearable or mobile phone-based buttons. Phone-based buttons can only be installed on employer equipment and wearable buttons can't be used to track employees except when the button has been activated.

The model policy, training, and FAQs can be found [here](#).

New York Amends the Warehouse Worker Injury Reduction Act - **June 1, 2025**

On Feb. 14, 2025, New York amended its [Warehouse Worker Protection Act](#) (WWPA). The amendments change the definition of "musculoskeletal injuries and disorders" to "work-related musculoskeletal disorders," expand who can conduct workplace evaluations and require employee input during such evaluations.

The new amendments go into effect on **June 1, 2025**.



The WWPB applies to warehouse distribution centers that directly or indirectly employ or exercise control over the wages, hours or working conditions of:

- 100 or more employees at a single warehouse distribution center; or
- 1,000 or more employees at one or more warehouse distribution centers in the state.

Warehouse Worker Injury Reduction Program

Every employer that is subject to the WWPB is now required to establish and implement an injury reduction program for its workers involved in performing manual materials handling tasks. The program must include the following:

- Worksite evaluation;
- Control of exposures;
- Employee training;
- On-site medical and first-aid practices; and
- Employee involvement.

Employer Takeaway: Applicable employers should review the amended WWPB rules and ensure the new requirements are implemented by the specified effective dates.

Upcoming State Enacts Retail Workplace Violence Prevention Law – March 25

On Sept. 4, 2024, New York enacted the Retail Worker Safety Act (the Act) ([S8358C/A8947C](#)). The Act is aimed at enhancing worker safety and mitigating the risk of workplace violence in retail environments. It applies to employers that have 10 or more employees working in a retail store. Under the Act, a “retail store” is defined as a store that sells consumer commodities at retail and is not primarily engaged in the sale of food for consumption on the premises.

Important Upcoming Dates:

March 3, 2025 - Employers must have their workplace violence prevention policy and training implemented.

January 1, 2027 - Employers with 500 or more retail employees nationwide must provide panic-button access to employees.

Regulatory Requirements

- Employer must implement written workplace violence prevention policies that address workplace violence risk factors and prevention methods.
- Additionally, they are required to provide information and interactive training to employees on various workplace violence issues. These include “measures that retail employees can use to protect themselves when faced with workplace violence,” such as de-escalation tactics, active shooter drills, emergency procedures, security alarms, panic buttons, and other emergency devices. Employers will have to provide this training to each employee upon hire, and then at least annually thereafter.
- Also, employers must provide access to panic buttons. This provision goes into effect on **January 1, 2027**, and it applies to any employer with 500 or more retail employees *nationwide*. Employers that must comply with this section may choose to provide panic buttons throughout their workplaces or mobile phone-based panic buttons.

Key Takeaways: New York retail employers should review the requirements of the Act and create a workplace violence prevention policy or adopt the model policy developed by the NY DOL by **March 3, 2025**. Retail employers that have a current workplace violence prevention policy should ensure their policies meet or surpass the minimum requirements of the NY DOL model policy. Retail employers should ensure that employees receive workplace violence prevention training as required under the Act. In addition, employers with 500 or more employees should prepare to have panic buttons implemented by Jan. 1, 2027, to comply with the Act’s requirements.

State Expands Criminal History Records Protection – March 22, 2025



Beginning March 22, 2025, employers of all sizes will be prohibited from requiring an applicant or employee to provide a copy of their criminal history record obtained under the rules and regulations of the New York State Division of Criminal Justice Services (DCJS).

This new protection essentially closes a loophole that allowed employers to bypass restrictions on criminal history inquiries by requesting applicants and employees to obtain their own DCJS records, which contain information that employers are prohibited from considering. This change makes it clear that employers can't require applicants and employees to provide these confidential records.

Employers should review and, if necessary, update their hiring practices and policies to comply with this change by March 22.

Upcoming State Retail Workplace-Violence Prevention Obligations

New York's Retail Worker Safety Act ([A 01678](#)), signed by the governor on February 14, will take effect on June 2, 2025. The law will require employers with 10 or more *retail employees* (defined as those who work in retail stores) to adopt a written workplace violence prevention policy and provide employee training. Employers with 500 or more retail employees in the state will also be required to provide silent response buttons. *Retail stores* don't include those that primarily sell food to eat on-site.

This law was originally scheduled to take effect on March 4, 2025, but has been amended to change some employer requirements and delay the effective date to June. The details below reflect the most recent version of the law.

- Employers will be required to adopt a written workplace violence prevention policy that identifies workplace risks, outlines violence prevention methods, explains legal protections, and states that retaliation is unlawful. The state will provide a model policy that employers can use.
- Employers will be required to provide retail employees with workplace violence prevention training that's interactive and includes information such as emergency procedures, de-escalation tactics, and instructions on how to use emergency devices such as security alarms or silent response buttons. The state will provide a model training program that employers can use. As part of this training, employers must also provide retail employees with a site-specific list of emergency exits and meeting places. The training must be provided upon hire and annually thereafter. However, employers with 49 or fewer retail employees only need to provide the workplace violence prevention training upon hire and every two years thereafter.
- Employers will be required to provide retail employees with the workplace violence prevention policy and the information presented in the training in writing upon hire and at each workplace violence training. They must be provided in English and the employee's primary language.
- By **January 1, 2027**, employers with 500 or more retail employees *in the state* must provide silent response buttons to employees that enable them to request immediate help from a security officer, manager, or supervisor during work. This requirement can be satisfied by installing the button in an easily accessible location in the workplace or providing employees with wearable or mobile phone-based buttons. Phone-based buttons can only be installed on employer equipment and wearable buttons can't be used to track employees except when the button has been activated.

The model policy and training are expected to be available on the New York Department of Labor's website before the effective date of June 2, 2025.

State Establishes a Warehouse Worker Injury Reduction Program Act – **June 1, 2025**

On Dec. 21, 2024, New York amended its [Warehouse Worker Protection Act](#) (WWPA). The amendments now require employers to establish a warehouse worker injury reduction program to identify and mitigate the risks of musculoskeletal injuries for employees tasked with manual material handling.

The new amendment goes into effect on June 1, 2025.

Affected Employers



The WWPB applies to warehouse distribution centers that directly or indirectly employ or exercise control over the wages, hours or working conditions of:

- 100 or more employees at a single warehouse distribution center; or
- 1,000 or more employees at one or more warehouse distribution centers in the state.

This definition includes employers that operate through the services of a third-party employer, temporary service, staffing agency, independent contractor or any similar entity.

Feb. 19, 2025 - The commissioner must form a task force and adopt standards and processes for certifying qualified ergonomists.

June 1, 2025 - The WWPB amendments go into effect.

June 19, 2025 - Employers must conduct an initial workplace evaluation.

Employer Takeaway: Affected employers should review the amended WWPB rules and ensure the new requirements are implemented by the specified effective dates.

State Publishes FAQs for New Paid Prenatal Leave Requirement - Jan 1, 2025

New York has published [answers to frequently asked questions](#) (FAQs) on its webpage for the state's new paid prenatal leave mandate, which takes effect Jan. 1, 2025. There are 28 FAQs in all, providing clarity about the requirement. As a reminder, employers must provide 20 hours of paid prenatal leave for use on Jan. 1, 2025

Clean Slate Act (Expanded Criminal History Protections)– Nov 16, 2024

New York law, at the state level and particularly at the city level, sets a range of parameters on whether, when and how employers can consider an individual's criminal history in the context of employment decisions. Augmenting the strictures New York imposes on employers, a new state law that takes effect **November 16, 2024**, called the Clean Slate Act will seal certain categories of records at various intervals, so that it will no longer be possible for employers to learn of certain types of criminal history. Employers that are unfamiliar with the range of New York protections in this context may unwittingly create liability issues for themselves through their hiring practices.

New York employers can legally check conviction records, but when evaluating the results of a criminal history check, state law requires that employers consider the relevance of the underlying conduct to the position for which the individual is being hired, consistent with a range of factors delineated in Article 23-A of the state **Correction Law**.

Those factors include:

- the state's public policy in favor of hiring those previously convicted of criminal offenses;
- the specific duties and responsibilities of the job;
- the extent to which the criminal offense will impact the applicant's fitness or ability to do the job;
- how much time has elapsed since the conviction;
- how old the person was at the time of the offense;
- the seriousness of the offense;
- evidence of rehabilitation and good conduct; and
- the employer's interest in protecting its property and the safety and welfare of specific individuals or the general public.

Clean Slate Act Means Less Access

Once the Clean Slate Act takes effect, misdemeanor records will be sealed effective three years after the date the individual was released from incarceration or, if the individual was not incarcerated then from the date of sentencing. Felony records will be accessible for a longer period and sealed eight years after release from incarceration, provided the individual does not then have another criminal charge pending and is not under probation or parole. Certain convictions, including Class A felonies for which a maximum sentence of life imprisonment could be imposed, and convictions requiring sex offender registration, are not eligible to be sealed at any point in time.



Employers will, therefore, remain able to screen for the most egregious criminal behaviors, regardless of how far back the conviction occurred. For lesser offenses, the state law will effectively take the decision making process out of employers' hands because older historic information will be unavailable.

NY Expands Protections for National Guard Service – Sept 27, 2024

New York now provides employment protections for employees who have been away from work on state active duty with the National Guard pursuant to a call of the governor of New York *or any other state*. This law [NY 3710](#) took effect immediately upon signing on September 27, 2024, and applies to employers of all sizes.

Employer Takeaway: If your handbook policy related to protected military and National Guard leave is not already expansive enough to cover this type of use, update it as needed.

New York PFL Contribution and Benefit Rates to Increase in 2025

New York state has published paid family leave (PFL) updates for 2025 on [its website](#) for the program. Both the employee contribution rate and the maximum weekly benefit for the program will see increases over the rates for 2024. New York PFL is fully funded by employees through payroll deductions. Employers are not required to contribute.

- The weekly employee benefit for New York state PFL leave will be capped at \$1,177.32 in 2025, an increase from 2024.
- The 2025 employee contribution rate for PFL will be 0.388% of gross wages, also increased from 2024.
- The maximum annual employee contribution for PFL in 2025 will be \$354.53.

Recap:

New York's [PFL law](#) provides eligible employees with up to 12 weeks of PFL. PFL coverage is typically added as a rider on an employer's existing disability insurance policy. Leave may be used for:

- Caring for a family member with a serious health condition;
- Birth, adoption or fostering of a child;
- A spouse's, domestic partner's, child's or parent's active military duty or impending active military duty; or
- Certain COVID-19-related reasons.

"Family member" is defined expansively and includes siblings.

State Enacts Retail Workplace Violence Prevention Law – March 25 & Jan 2027

On Sept. 4, 2024, New York enacted the Retail Worker Safety Act (the Act) ([S8358C/A8947C](#)). The Act is aimed at enhancing worker safety and mitigating the risk of workplace violence in retail environments. It applies to employers that have 10 or more employees working in a retail store. Under the Act, a "retail store" is defined as a store that sells consumer commodities at retail and is not primarily engaged in the sale of food for consumption on the premises.

Important Upcoming Dates:

March 3, 2025 - Employers must have their workplace violence prevention policy and training implemented.

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Regulatory Requirements

- Employer must implement written workplace violence prevention policies that address workplace violence risk factors and prevention methods.
- Additionally, they are required to provide information and interactive training to employees on various workplace violence issues. These include "measures that retail employees can use to protect themselves when faced with workplace violence," such as de-escalation tactics, active shooter drills, emergency procedures, security alarms, panic buttons, and other emergency devices. Employers will have to provide this training to each employee upon hire, and then at least annually thereafter.



- Also, employers must provide access to panic buttons. This provision goes into effect on **January 1, 2027**, and it applies to any employer with 500 or more retail employees *nationwide*. Employers that must comply with this section may choose to provide panic buttons throughout their workplaces or mobile phone-based panic buttons.

Key Takeaways: New York retail employers should review the requirements of the Act and create a workplace violence prevention policy or adopt the model policy developed by the NY DOL by **March 3, 2025**. Retail employers that have a current workplace violence prevention policy should ensure their policies meet or surpass the minimum requirements of the NY DOL model policy. Retail employers should ensure that employees receive workplace violence prevention training as required under the Act. In addition, employers with 500 or more employees should prepare to have panic buttons implemented by Jan. 1, 2027, to comply with the Act's requirements.

New York Requires Paid Lactation Breaks - June 19

Paid Lactation Breaks

Effective [June 19, 2024](#), all private sector employers (regardless of size) will be required to provide 30 minutes of **paid** break time to employees who need to express breast milk for a nursing child at work. Employees must also be allowed to use any existing paid break or meal time for breast milk expression in excess of 30 minutes. The law does not explicitly cap the number of paid lactation breaks employees are entitled to per day. Rather, the law provides that employers are required to provide paid lactation breaks "each time such employee has reasonable need to express breast milk," suggesting that employees may be entitled to multiple paid lactation breaks per day. Currently, New York employers are only required to provide "reasonable unpaid break time" for breast milk expression up to three years following childbirth. The new law retains this three-year limitation but significantly departs from existing law by requiring that such breaks be compensated. Note that 2023 amendments to New York's lactation accommodation law required employers to distribute a lactation accommodation policy to all employees which meets or exceeds the model policy developed by the New York Department of Labor. Although that model policy has not yet been updated, employers are encouraged to update their policies to reflect changes to the law.

Mandated Paid Prenatal Leave

The State of New York has become the first state to mandate paid prenatal leave. The legislature on April 19, 2024, passed an amendment to New York Labor Law § 196-b that will require employers to provide up to 20 hours of paid leave in a 52-week period for pregnant employees to attend prenatal medical appointments and procedures. The leave entitlement was included in [New York's final budget for fiscal 2025](#). This is the first law of its kind in the United States as it provides a separate bank of paid, protected leave for pregnant employees for prenatal care above and beyond existing paid leave entitlements.

Employer Takeaway: This amendment takes effect **January 1, 2025**. ETC will release an updated State Handbook Addendum in advance of the effective date.

Learn More:

This "paid prenatal personal leave," as it is called in the amendment, can be used by pregnant employees for healthcare services, testing, or procedures that relate to their pregnancy. Paid prenatal leave does not appear to be an accrued benefit, and the text of the amendment suggests it must be made immediately available to employees in its entirety at the time they are hired. The 20 hours of paid leave can be taken in hourly increments. Per the amendment, employees are to receive compensation for paid prenatal personal leave at the employee's regular rate of pay or the applicable minimum wage, whichever is greater.

Paid prenatal personal leave is in addition to paid sick and safe leave (40 or 56 hours, depending on the size of the employer) and paid family leave employees in New York are currently entitled to, and in addition to the separate bank of paid safe leave available to employees working in Westchester County, New York. Note that under existing programs, employees can use up to 26 weeks of short-term disability and paid family leave benefits in a 52-week



period. Employees who qualify are eligible for up to 12 weeks of paid family leave at 67% of their average weekly wage, with certain maximum benefit caps that apply.

Some employees may also be eligible for unpaid leave under the Family and Medical Leave Act (FMLA) for serious health conditions. The statute does not restrict the number of times paid prenatal leave can be taken by a single employee over time, other than to limit the use to 20 hours in a 52-week period.

The amended law provides that unused paid prenatal personal leave is not a benefit that needs to be paid out upon an employee's termination, resignation, or other separation from employment.

RESOURCE: The state's recently released [FAQs](#) say that employers can't ask employees for information about their health condition or request medical records or related documents in order to use paid prenatal leave.

Expanded Criminal History Protections

New York law, at the state level and particularly at the city level, sets a range of parameters on whether, when and how employers can consider an individual's criminal history in the context of employment decisions. Augmenting the strictures New York imposes on employers, a new state law that takes effect **November 16, 2024**, called the Clean Slate Act will seal certain categories of records at various intervals, so that it will no longer be possible for employers to learn of certain types of criminal history. Employers that are unfamiliar with the range of New York protections in this context may unwittingly create liability issues for themselves through their hiring practices.

New York employers can legally check conviction records, but when evaluating the results of a criminal history check, state law requires that employers consider the relevance of the underlying conduct to the position for which the individual is being hired, consistent with a range of factors delineated in Article 23-A of the state **Correction Law**.

Those factors include:

- the state's public policy in favor of hiring those previously convicted of criminal offenses;
- the specific duties and responsibilities of the job;
- the extent to which the criminal offense will impact the applicant's fitness or ability to do the job;
- how much time has elapsed since the conviction;
- how old the person was at the time of the offense;
- the seriousness of the offense;
- evidence of rehabilitation and good conduct; and
- the employer's interest in protecting its property and the safety and welfare of specific individuals or the general public.

Clean Slate Act Means Less Access

Once the Clean Slate Act takes effect, misdemeanor records will be sealed effective three years after the date the individual was released from incarceration or, if the individual was not incarcerated then from the date of sentencing. Felony records will be accessible for a longer period and sealed eight years after release from incarceration, provided the individual does not then have another criminal charge pending and is not under probation or parole. Certain convictions, including Class A felonies for which a maximum sentence of life imprisonment could be imposed, and convictions requiring sex offender registration, are not eligible to be sealed at any point in time.

Employers will, therefore, remain able to screen for the most egregious criminal behaviors, regardless of how far back the conviction occurred. For lesser offenses, the state law will effectively take the decision making process out of employers' hands because older historic information will be unavailable.

State's Expanded Privacy and Wage Protections

The following changes to New York's employment laws apply to employers of all sizes.

PERSONAL ACCOUNT PRIVACY PROTECTIONS



Beginning **March 12, 2024**, employers will be prohibited from electronically accessing employees' and applicants' personal accounts.

What is a personal account, you ask?

A *personal account* is an electronic account used exclusively for personal purposes, where users can create or share their own content. Examples include social media accounts, podcasts, blogs, and instant messages. Specifically, employers can't ask, require, or pressure employees or applicants to disclose login credentials, access their personal accounts in the employer's presence, or reproduce information contained in their personal accounts. The law contains some exceptions. For instance, employers are still allowed to make employees provide access information for nonpersonal accounts that provide access to the employer's internal computer or systems, or accounts that are used for business purposes (though, in some cases, prior notice may be required). Employers can also still view, access, and use information about employees and applicants that is publicly available or doesn't require special access.

Action Items

Make sure those involved in the hiring process, as well as all in supervisory roles, are aware of these prohibitions. Check your social media and electronic device policies to make sure they're compliant.

WAGE PAYMENT PROTECTION CHANGES

As of **March 13, 2024**, the state's earnings threshold for the applicability of **wage payment protections** for those employed in a bona fide executive, administrative, or professional capacity will increase from \$900 per week to \$1,300 per week.

This law does **not** change the minimum salary for exempt employees—it simply extends certain longstanding wage payment rules to those who make \$1,300 or less per week.

Action Items

Employers will now need to make sure these employees are:

- Paid wages at *least* semimonthly, have provided advance written consent for direct deposit, and are
- Paid any benefits or wage supplements (e.g., reimbursements for out-of-pocket business expenses) within 30 days of becoming due.

Ohio

State Increases Minimum Wage – Eff Jan 1, 2026

On January 1, 2026, Ohio's minimum wage will increase to \$11 per hour. The minimum base wage for tipped employees will increase to \$5.50 per hour. Employers that gross less than \$405,000 per year can pay the federal minimum wage.

Columbus Enacts Pay Transparency (Pay Ranges in Job Postings) Law

Eff Dec 3, 2025; Enforcement Starting Jan 1, 2027

Employers with 15 or more employees in Columbus will be required to include pay ranges in all job postings. While the law is effective December 3, 2025, the city doesn't expect to actively enforce it until January 1, 2027.

Job postings are defined broadly and include any communication that describes a position or its qualifications. Job postings for internal transfers and promotions are excluded.

The posting should include a pay range that's a reasonable estimate of what the employer expects to pay for that particular position as well as other types of monetary compensation, like commissions and bonuses.

The salary range should be based on factors specific to the position, such as:

- Budget for the role
- Expected years of experience
- Cost of living



If an employer plans to pay an exact amount (rather than within a range), that should be included in the posting.

Reminder: Cleveland Joins the Pay Equity Trend, Mandating Pay Transparency and Banning Salary Inquiries – Eff Oct 27, 2025

Reminder: State Enacts Mini-WARN Act Requiring Notice Components in Addition to Federal WARN – Eff Sept 29, 2025

State Enacts Mini-WARN Act Requiring Notice Components in Addition to Federal WARN – Eff Sept 29, 2025

- New Ohio Revised Code § 4113.31 requires employers to provide 60 days' advance notice of "plant closings" or "mass layoffs" to employees, unions, the state, and local government officials.
- Although the law mostly incorporates and tracks the federal Worker Adjustment and Retraining Notification Act (Fed WARN), it adds requirements for the information that must be included in the notices.

On July 1, 2025, Ohio Governor Mike DeWine signed [House Bill No. 96](#), most of which related to the state's operating budget for fiscal year 2026-2027. However, the bill also added a new code section that includes a state mini-WARN Act requiring employers to provide 60 days' advance notice to employees, unions, and certain government officials whenever a "mass layoff" or "plant closing" occurs. The provision goes into effect on September 29, 2025.

Next Steps

Like Federal WARN, Ohio WARN involves complicated questions about whether a notice obligation exists, who must be counted, when notice must be given, and the elements of the notice.

Potential action items for employers include:

- Plan reductions in force sufficiently in advance to comply with any Ohio WARN notice obligations. Ohio WARN requires notice elements that are more detailed than Fed WARN in many respects, and reserving additional time to prepare the notices may be important.
- Review and update any policies or other documents regarding reductions in force, layoffs, or protocols for closures to account for Ohio WARN requirements, including the additional notice elements.
- Provide training to personnel involved in reductions in force, layoffs, and closures to make them aware of the Ohio WARN requirements. Management, HR, and legal representatives should be trained to recognize situations involving potential Ohio WARN notice obligations so that sufficient notice may be provided.
- Consult experienced counsel before implementing layoffs or closures in Ohio. Fed WARN includes exclusions for employees who are not "countable" towards WARN notice thresholds as well as exceptions for unforeseeable business circumstances, faltering companies, and natural disasters, which Ohio WARN incorporates. There are also complicated questions about how to account properly for remote workers and WARN aggregation periods that can result in unexpected notice obligations. Such conversations should occur before individuals are laid off to manage notice obligations and to avoid retroactive notice triggers and other situations that may result in a WARN violation.

State Allows Electronic Labor Notice Postings – Eff July 21, 2025

Starting July 21, 2025, Ohio employers will be allowed to post certain employee notices on the internet instead of physically in the workplace.

Specifically, employers will be allowed to post the following state law notices on the internet, but only if they will be accessible to all employees:

- Summaries of minimum wage and overtime law and rules
- Summaries of wage discrimination law and rules
- *Know Your Rights* (Fair Employment Practice Poster)



- *Certificate of Premium Payment* (relating to workers' compensation)
- Notice regarding drug and alcohol tests results being able to affect employees' eligibility for workers' compensation benefits
- Abstract summarizing Ohio's child labor law

Employers that don't provide access to the internet in the workplace, or that have workers who are not computer savvy, should continue to physically post these notices.

Cleveland Joins the Pay Equity Trend, Mandating Pay Transparency and Banning Salary Inquiries – Eff Oct 27, 2025

On April 30, 2025, Cleveland, Ohio, became the latest in a long list of jurisdictions to restrict how private employers recruit and hire talent. Intended to promote equitable compensation practices, [Ordinance No. 104-2025](#) requires covered employers to post salary information in job ads and further bans covered employers from asking applicants about their salary history or using salary history to set pay. The ordinance covers private employers with at least 15 employees located in Cleveland and takes effect October 27, 2025.

Mandatory Inclusion of Compensation Information in Job Postings

The ordinance requires covered employers to include the salary range or salary scale for a position in the notification, advertisement or other formal posting for a job. Covered employers are required to include such information in postings for all manner of roles including, but not limited to, temporary and seasonal work, work on commissions and work through the services of a temporary employment agency.

Carveouts to Prohibitions

The ordinance exempts certain categories of employees and circumstances from its broad prohibitions.

First, the ordinance does not apply to current employees. It does not restrict covered employers from discussing compensation with candidates for internal transfers or promotion, for example. Similarly, it does not cover rehires whose salary history the employer knows from the applicant's prior employment. Employees of federal, state or local governments (other than the city of Cleveland) also are not covered by the ordinance.

Next, where a collective bargaining agreement governs compensation, the ordinance does not apply to positions subject to the agreement.

Further, if an employer learns of an applicant's salary history incidentally in the results of a pre-hire background check, the employer may consider the salary information, so long as it is not the sole determinant of the pay offered to the applicant. Similarly, the ordinance explicitly permits covered employers to consider an applicant's current or prior salary if the applicant discloses it voluntarily, without prompting.

Finally, the ordinance does not apply where a separate federal, state or local law specifically authorizes the employer to rely on an applicant's salary history to determine pay for the job.

Employer Takeaway: Cleveland employers should review their job applications for questions about salary history. Additionally, they should review salary and benefits information to prepare for disclosing compensation information in job postings. Another step they may want to take is training internal and external recruiters, hiring managers and other personnel involved in hiring about the mandates of the ordinance. Cleveland employers ought to consider as well how the ordinance may affect employee relations with existing employees. Employers in Ohio should note that three other major cities have laws similar to the ordinance already in effect: Cincinnati (effective March 2020), Toledo (effective June 2020) and Columbus (effective March 2024).



State Enacts Wage Statement Regulations – Eff April 9, 2025

On Jan. 8, 2025, Ohio enacted the [Pay Stub Protection Act](#) (the Act) (OH HB106) requiring employers to provide earning and deduction statements to each employee. The Act becomes effective on **April 9, 2025**.

- The Act requires employers to provide written or electronic wage statements (or access to these statements) to every employee each pay period. The statement must include the following information:
- The employee's name and address;
- The employer's name;
- The total gross wages earned by the employee during the pay period;
- The total net wages paid to the employee for the pay period;
- A listing of the amount and purpose of each addition to or deduction from wages paid to the employee during the pay period; and
- The date the employee was paid and the pay period covered by that payment.

If employees are paid on an hourly basis, employers must also include the total number of hours the employee worked in the pay period, the hourly rate at which the employee was paid and the employee's hours worked in excess of 40 hours in one workweek in the wage statement.

Oklahoma

State Increases Tip Credit – Eff Nov 1, 2025

Beginning November 1, 2025, Oklahoma will increase the allowable tip credit under SB 250.

Oregon

Workplace Violence Prevention for Healthcare Employers– Eff Jan 1, 2026

ETC does not track or report on industry specific enacted regulations; however, enactments effective in 2026 do include the state's workplace violence prevention law for healthcare employers which will be expanded significantly, including covering more types of employers and a wider range of conduct.

Specifically, covered employers will be expanded to include home health agencies and home hospice programs, and covered conduct will be broadened to *workplace violence* that will include any act or threat of physical violence, harassment, intimidation, assault, homicide, or any other threatening behavior that occurs in the workplace (currently, the law only covers assault).

A few additional key changes include that employers will need to:

- Provide workplace violence prevention training annually to employees as well as contracted security personnel working onsite. New employees should be trained within 90 days of hire, and temporary employees within 14 days of their start date.
- Develop a detailed workplace violence prevention and response plan, including policies and procedures for conducting investigations and post-incident interviews and implementing post-incident response strategies.
- Provide each employee with a written copy of the plan, including a statement explaining that employees are protected from retaliation. New hires should receive this within 30 calendar days of their start date.

The updated law also includes additional provisions, such as safety measures and training requirements for home healthcare employees. Oregon OSHA is planning to create regulations to better define employer obligations, which will likely be accessible from its [website](#) when finalized. Impacted employers are urged to ensure they research and understand implications of these enactments.

Reminder: State's Expansion of Paid Sick Leave for Organ Donation – Eff Jan 1, 2026

Starting January 1, 2026, Oregon's paid sick leave law expands to cover organ donation, allowing employees to use accrued sick time for donating organs or bone marrow, with specific amendments (SB 1108/HB 1616) adding this to existing leave for family/medical needs, ensuring job protection for donation-related time off under Paid Leave



Oregon (PLO) and the Oregon Family Leave Act (OFLA). While OFLA provides job protection (unpaid), PLO offers paid benefits, and these changes integrate donation leave with sick leave, giving employees more flexibility for this important process. With the Dec HR WIRE, the OR State Handbook Addendum has been updated to reflect these details.

Reminder: Update: State Expands Wage Statement Requirements to Time of Hire – Eff Jan 1, 2026

On May 26, 2025, Oregon [amended](#) its rules regulating minimum wage, overtime and working conditions to require employers to provide all employees a written explanation of earnings and deductions shown on itemized statements at the time of hire. This amendment becomes effective on Jan. 1, 2026.

The explanation must include general information on the following:

- The employer's established regular pay period;
- A comprehensive list of all types of pay rates employees may be eligible for (including hourly pay, salary pay, shift differentials, piece-rate pay and commission-based pay), all benefit deductions and contributions, and every type of deduction that may apply;
- The purpose of the deductions that may be made during a regular pay period;
- Allowances, if any, claimed as part of minimum wage;
- Employer-provided benefits that may appear on the itemized statements as contributions and deductions; and
- All payroll codes used for pay rates and deductions, along with a detailed description or definition of each code.

The Oregon Bureau of Labor and Industries (BOLI) will develop a model written guidance document that employers may use and customize to satisfy the amendment's written explanation of earnings and deductions requirements. Employers can monitor the BOLI's [website](#) for the publication of the model written guidance. ETC will also continue to monitor and provide updates.

Reminder: Sick Leave for Blood Donation – Eff Jan 1, 2026

Oregon has amended its sick time law to permit covered workers to use their sick time to donate blood, effective Jan. 1, 2026. [Senate Bill 1108](#) amends the sick time law to add blood donation as a qualified reason for leave. The bill was signed into law by Gov. Tina Kotek. With the Dec HR WIRE, the OR State Handbook Addendum has been updated to reflect these details.

Reminder: State Updates OFLA, PLO, and Sick Leave – Eff Sept 26, 2025

Oregon has updated the Oregon Family Leave Act (OFLA), Paid Leave Oregon (PLO), and its sick leave law under enacted [SB 69](#).

OFLA

Employees will only be able to take OFLA leave to care for a child if the child is under 18 or is substantially limited by an impairment for the following leave reasons:

- When the child is sick at home, or
- When the child requires home care because their school or place of care is closed due to a public health emergency (PHE).

PLO

Before an employee returns from PLO medical leave, employers will be allowed to require a certification from the employee's healthcare provider that they're fit to resume work. However, employers that require certification need to have a uniform practice of requiring it from all returning employees. If you'd like to learn more, the state has a comprehensive website dedicated to [Paid Leave Oregon](#).

Sick Leave

Employees will be able to use sick leave for *any* reason that's covered by PLO.



Employer Takeaway: ETC's July 2025 OR State Handbook Addendum reflects changes.

Reminder: State Expands Age Discrimination Protections – Eff Sept 28, 2025

Oregon [amended](#) its antidiscrimination law to expand age discrimination by prohibiting employers from making age-related inquiries during the hiring process and restricting the use of age limits in apprenticeships. The amended law takes effect on Sept. 28, 2025.

Update: State Expands Wage Statement Requirements to Time of Hire – Eff Jan 1, 2026

On May 26, 2025, Oregon [amended](#) its rules regulating minimum wage, overtime and working conditions to require employers to provide all employees a written explanation of earnings and deductions shown on itemized statements at the time of hire. This amendment becomes effective on Jan. 1, 2026.

The explanation must include general information on the following:

- The employer's established regular pay period;
- A comprehensive list of all types of pay rates employees may be eligible for (including hourly pay, salary pay, shift differentials, piece-rate pay and commission-based pay), all benefit deductions and contributions, and every type of deduction that may apply;
- The purpose of the deductions that may be made during a regular pay period;
- Allowances, if any, claimed as part of minimum wage;
- Employer-provided benefits that may appear on the itemized statements as contributions and deductions; and
- All payroll codes used for pay rates and deductions, along with a detailed description or definition of each code.

The Oregon Bureau of Labor and Industries (BOLI) will develop a model written guidance document that employers may use and customize to satisfy the amendment's written explanation of earnings and deductions requirements. Employers can monitor the BOLI's [website](#) for the publication of the model written guidance. ETC will also continue to monitor and provide updates.

State Expands Age Discrimination Protections – Eff Sept 28, 2025

On May 22, 2025, Oregon [amended](#) its antidiscrimination law to expand age discrimination by prohibiting employers from making age-related inquiries during the hiring process and restricting the use of age limits in apprenticeships. The amended law takes effect on Sept. 28, 2025. Employers may wish to take this opportunity to ensure their current hiring practices to involve any age-related inquiries.

Sick Leave for Blood Donation – Eff Jan 1, 2026

Oregon has amended its sick time law to permit covered workers to use their sick time to donate blood, effective Jan. 1, 2026. [Senate Bill 1108](#) amends the sick time law to add blood donation as a qualified reason for leave. The bill was signed into law by Gov. Tina Kotek and allows. ETC will provide an updated State Handbook Addendum ahead of the effective date.

Updated Minimum Wage – Eff July 1, 2025

On July 1, 2025, Oregon's automatic minimum wage increase for non-exempt employees will take effect. Under Oregon state law, the Oregon Bureau of Labor and Industries (BOLI) calculates an annual increase to the minimum wage rate based on the Bureau of Labor Statistics' Consumer Price Index from March of the preceding year to March



of the year in which the calculation is made. Last month, BOLI Commissioner Christina Stephenson announced the following 35-cent increases throughout the state:

- The Portland metro area's minimum wage will increase from \$15.95 to \$16.30 per hour. This area includes Multnomah County and parts of Washington and Clackamas Counties within the urban growth boundary.
- The "standard minimum wage" will increase from \$14.70 to \$15.05 per hour. This area includes Benton, Clatsop, Columbia, Deschutes, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Polk, Tillamook, Wasco, Yamhill, and parts of Clackamas, Multnomah, and Washington Counties outside the urban growth boundary.
- Non-urban counties' minimum wage will increase from \$13.70 to \$14.05 per hour. This area includes Baker, Coos, Crook, Curry, Douglas, Gilliam, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, and Wheeler Counties.

As a reminder, employers should pay employees the minimum wage for the county where 50% or more of the employee's work is performed each week. Employees who do not work at least 50% of the pay period in any fixed location must be paid the rate applicable to the region where the work was performed. To the extent the employee performs work in more than one region, an employer may track the hours worked in each region and pay the corresponding regional rates. Alternatively, employees may be paid at the highest of the regional rates applicable to the employee's work in that pay period.

Oregon employers should ensure all non-exempt employees are paid at least the applicable minimum wage as of July 1. Employers should also obtain and display an updated minimum wage poster at their worksites, which is available at [BOLI's website](#).

State Updates Administrative Rules for Paid Leave – Jan 1, 2025

Oregon's updated administrative rules for Paid Leave Oregon took effect on January 1, 2025.

These updates align with the 2024 law changes and include, but aren't limited to, the following:

- Revised definitions for terms such as "care" and "child."
- Added definitions for "foster care" and "pre-placement leave."
- Pre-placement leave for adoption or foster care is limited to intermittent use only.

The Oregon Employment Department filed this [Permanent Administrative Order](#) on December 27, 2024. The January 2025 State Handbook Addendum includes policy language edits to reflect needed changes.

Reminder: Paid Leave Oregon & OFLA Leave Change - Jan 1, 2025

Beginning January 1, 2025, Paid Leave Oregon (PLO) will provide leave to complete the necessary legal steps for the placement of a foster child or the adoption of a child. This has been covered under the Oregon Family and Medical Leave Act (OFLA) but will be removed as an OFLA leave reason once covered by PLO. State Handbook Addendum verbiage changes forthcoming.

State Warehouse Quota Notification Requirements – Jan 1, 2025

Oregon enacted a new law ([HB 4127](#)) that protects warehouse workers who are subject to work quotas. The law requires employers to provide warehouse employees with written documentation summarizing any quota to which the employees are subject while completing work. The documentation must include the number of tasks to be performed, materials to be produced or handled within a defined time period, and a description of the potential consequences, including adverse employment actions, that the employee may face for failure to meet the quota. Warehouse employers must provide this documentation at the time of hire, within two days of a change to an existing employee's quota and when an employer takes an adverse employment action due to an employee's failure to meet the quota. This documentation must be provided in the language the employer regularly uses to communicate with the employee.



Employers cannot take adverse employment action against an employee for failure to meet a quota if the employee did not receive the written documentation.

Covered warehouse employers include any person who directly or indirectly, including through a third party, temporary service or staffing agency, employs or exercises control over the wages, hours or working conditions of the employees employed at a warehouse distribution center of 100 or more employees at a single warehouse distribution center or 1,000 or more employees at one or more warehouse distribution centers in the state. This law does not apply to employers subject to a collective bargaining agreement under which employees are subject to a performance evaluation metric that is subject to review and negotiation and provides for rights to request records similar to the rights afforded under the new law.

MINIMUM WAGE INCREASES 7.1.24

The hourly minimum wage in Oregon will increase as follows:

- Portland Metro (within Portland's Urban Growth Boundary): \$15.95
- Nonurban Counties: \$13.70
- All Other ("Standard") Counties: \$14.70

Predictive Scheduling Exceptions Broadened

The state's predictive scheduling law (which only applies to employers in the retail, hospitality, and food services industries with 500 or more employees) will contain a new exception for short-notice schedule changes due to PLO, OFLA, and related leaves. Specifically, when an employer is provided with less than 14 days' notice of an employee going out on, or returning from, a protected leave, they won't owe predictive scheduling pay to an employee who is temporarily covering the absent employee's shifts.

Employer Takeaways: If this law applies to you and your policy includes exceptions to required pay, update it to include this scenario.

Oregon Family Leave Act – July 1

Employers covered by the Oregon Family Leave Act (OFLA) (those with 25 or more employees in Oregon) should be aware of the following significant changes to the law.

Forward-Looking Leave Year Required

Employers will be required to use a forward-looking leave year to determine the amount of OFLA leave an employee is entitled to take within a given one-year period. The forward-looking leave year is a consecutive 52-week period, beginning on the Sunday immediately preceding the date on which leave begins. Employers that don't currently use a forward-looking leave year calculation will have to transition to one as of **July 1**.

Many Covered Reasons for Leave Eliminated

OFLA's covered reasons for leave will be significantly reduced to limit overlap with Paid Leave Oregon (PLO). OFLA will *no longer* cover the following reasons for leave:

- To care for an infant or newly adopted or foster child
- To care for a family member with a serious health condition (except for caring for a sick or injured child at home)
- To recover from, or seek treatment for, the employee's own serious health condition

Employees' leave entitlement under OFLA will be limited to the following:

- Up to 12 weeks of leave per year to either care for a child at home because they are sick or injured (for both serious and nonserious health conditions) or because their school or care provider is closed due to a public health emergency.
- Up to four *total* weeks of leave per year for bereavement (employees are still allowed to take two weeks of leave for each death, but the total amount of leave has been reduced from 12 weeks to four weeks).
- Up to 12 weeks of leave for any illness, injury, or condition related to their own pregnancy or childbirth that prevents them from performing any available job duties offered by the employer. (As before, this time is available in addition to an employee's use of OFLA for other purposes.)



- Up to 14 days per deployment under the Oregon Military Family Leave Act.

Additionally, from **July 1, 2024, through December 31, 2024**, OFLA will provide employees with two weeks of leave to complete the necessary legal steps for the placement of a foster child or the adoption of a child. These two weeks are available in addition to an employee's use of OFLA for other purposes. Beginning **January 1, 2025**, this will be covered under PLO.

Rescinding Previously Designated OFLA Leaves

Oregon's Bureau of Labor and Industries (BOLI) requires employers to take certain steps with respect to rescinding approvals for OFLA leaves that are currently covered under the law but won't be as of July 1, 2024. Employers can use the [model notice](#) provided by the Oregon Employment Department for these communications. See the platform for more information or the recently updated [BOLI page](#) covering the changes.

OFLA and PLO Won't Run Concurrently

OFLA and PLO will no longer run concurrently. This means that any leave taken under one law will be *in addition to* any leave taken under the other.

Employer Takeaways:

- Update your OFLA policies if still needed
- Prepare for the new forward-looking OFLA leave year
- Provide necessary notices for leaves that will no longer be covered by OFLA

PLO & Use of Accrued Paid Leave

Employees on PLO leave will be entitled to use any accrued paid leave in conjunction with PLO benefits, up to the amount that would result in full wage replacement. Employers will also have the *option* of allowing the use of accrued paid leave in an amount that would result in the employee getting *more* than full wage replacement. Additionally, if multiple types of accrued leave are available to an employee, the employer can determine the order in which the different types of accrued leave are used.

Employer Takeaways: Update your PLO policy to state that employees have the option to use any accrued paid leave they have available to make themselves whole and specify whether they will be permitted to use accrued paid leave to exceed full wage replacement.

State's OFLA, PLO & Sick Time Changes

NOTE: Under a temporary rule, Oregon employers have until **June 1, 2024**, to inform workers if their previously approved leave will not meet the requirements of the Oregon Family Leave Act (OFLA) as of July 1, 2024. On March 20, 2024, Governor Tina Kotek signed into law Senate Bill 1515, which eliminated some qualifying reasons for leave under the Oregon Family Leave Act (OFLA) that overlapped with qualifying reasons for leave under Paid Leave Oregon, effective July 1, 2024. On **May 8, 2024**, the Oregon Bureau of Labor and Industries issued a [temporary administrative order](#) to address the fact that some employers will have approved employees take OFLA leave for reasons that, as of July 1, 2024, will no longer qualify for OFLA leave but that will qualify for Paid Leave Oregon.

Oregon updated several aspects of the Oregon Family Leave Act (OFLA) to align with its new paid family and medical leave law, Paid Leave Oregon (PLO). The changes should assist employers in managing the overlap between these two benefits. PLO benefits became available on September 3, 2023, which is also when the new definition of "family member" under OFLA takes effect. Because Oregon Sick Time uses the same definition of family member as OFLA, the Sick Time law is effectively amended as well.

Definition of Family Member

The definition of **family member** under OFLA—and Oregon's Sick Time law—will match the PLO definition. The new definition expands the relationships that qualify as family. Family member will now include an employee's: Spouse, Domestic partner, Child, Parent, Grandparent, Grandchild, Sibling (which includes stepsiblings), Spouse or domestic partner of their child, parent, sibling, grandparent, or grandchild and any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship (e.g., a boyfriend or girlfriend, honorary aunts and uncles, best friends, or roommates)



Leaves Run Concurrently

OFLA must run concurrently with PLO—not in addition to it—when the leave reason qualifies under both laws.

Mandatory Forward-Looking OFLA Benefit Year in 2024

Beginning on **July 1, 2024**, employers will be required to use a forward-looking benefit year for purposes of calculating an employee's OFLA leave entitlement—the same method that's used to calculate an employee's eligibility for PLO. This method tracks the employee's 52-week benefit year beginning the Sunday before their first use of leave.

Employer Action Items

- If your OFLA or Oregon sick leave policies define family member, update the definition to comply with these changes or remove the detailed definition entirely. Updated OR State Handbook addendum forthcoming to include even more added "Family Member" clarification policy language February 2024.
- Ensure that you are running OFLA concurrently with PLO when the absence qualifies for both types of leave
- Implement a forward-looking benefit year for OFLA by **July 1, 2024** (if you don't already use that method), and consider changing your FMLA benefit year to match

Resources:

- [Family Leave Act](#) (OFLA)
- [Paid Leave Oregon](#) (PLO)
- [SB 1515](#)

Oregon Updates Leave Regulations

On February 29, 2024, Oregon finalized regulations affecting the Oregon Family Leave Act (OFLA) and the Sick Time law—([BLI 9-2024](#))- took effect just a few days later on **March 2, 2024**. While many of the updates were technical adjustments to bring continuity and clarification to the state's various leave laws, there were some more substantive changes, and we've provided the highlights below.

The updated regulations:

- Allow employers to require that employees document the existence of an "affinity" relationship when using sick leave or OFLA leave to care for or grieve a family member and provide sample language.
- Eliminate the requirement, under both laws, that a domestic partner (as a type of family member) be of the same sex as the employee.
- Require employers to count any hours of protected leave the employee has taken when calculating an employee's average hours per week for OFLA eligibility purposes.
- Expand OFLA's definition of *serious health condition* to include disability resulting from the termination of a pregnancy and absences due to fertility or infertility treatments (reasons employees can take pregnancy disability leave).
- Allow employees who qualify for leave under both OFLA and Paid Leave Oregon (PLO) to use any available paid time off during that dual-coverage leave.
- Require employers that transition to a rolling-forward, one-year period to provide all eligible employees with a new, full leave bank at the beginning of the new OFLA leave year.
- Clarify that when an employer receives notice (from any source) that an employee has applied for PLO, they have sufficient information to temporarily designate the absence as OFLA leave.

Employer Takeaway: Update your leave policies to include these details if they are topics you have covered within those policies

Pennsylvania

**State Amends "Crown Act" Regulations /Expanded Protections for Race & Religion – Eff
Jan 24, 2026**



On Nov. 25, 2025, Pennsylvania [amended](#) the Pennsylvania Human Relations Act (PHRA) to prohibit employers from discriminating against individuals on the basis of traits historically associated with race or religious creed, such as hairstyles and head coverings. The amendment takes effect on **Jan. 24, 2026**.

Amendment Overview

The PHRA prohibits employers with **4 or more employees** from refusing to hire, discharging or discriminating against an individual with respect to terms and conditions of employment on the basis of a protected trait (including race and religious creed).

The amendment expands the definition of “**race**” to include traits historically associated with race, including but not limited to hair texture and protected hairstyles (e.g., locs, braids, twists, coils, Bantu knots, afros and extensions). The amendment also expands the definition of “**religious creed**” to include head coverings and hairstyles historically associated with religious creeds.

However, employers may adopt or enforce otherwise valid workplace health and safety rules or policies justified as bona fide occupational qualifications or policies to prevent a hostile work environment if such policies are nondiscriminatory, necessary, narrowly tailored and applied equally.

Employer Takeaway: Prior to the amendment, the Pennsylvania Human Relations Commission had already included protections against discrimination against individuals on the basis of hair texture and protective hairstyles associated with race in agency guidance. Therefore, covered Pennsylvania employers should already be in compliance with the amendment’s updated definition of race. However, employers may consider reviewing employment policies to ensure they do not discriminate on the basis of traits historically associated with either race or religious creed. ETC’s EEO policy addresses both hairstyles and head coverings.

Philadelphia Expands Its “Ban the Box” (Criminal History Protections) Restrictions – Eff Jan 6, 2026

The City of Philadelphia recently amended its Fair Criminal Record Screening Standards Ordinance (FCRSS), commonly known as Philadelphia’s “Ban the Box” law, to make it more difficult for employers to consider criminal history information in employment actions. The amendments, which were signed into law on Oct. 8, 2025, will go into effect on Jan. 6, 2026.

The [amendments](#) make three critical changes to the FCRSS:

- (i) they further limit the convictions that employers may consider in hiring and other employment decisions,
- (ii) they expand the notices that candidates must receive concerning criminal background checks, and
- (iii) they add a strong antiretaliation provision.

The amendments require employers to notify applicants and employees of certain factors to be considered in evaluating criminal history records and the process for providing additional evidence concerning any convictions.

If an employer notifies applicants of its intention to perform a background check during the hiring process, including in job advertisements, it must also state that any consideration of the background check will be subject to an individualized assessment based on the applicant’s or employee’s specific record and the duties and requirements of the job in question. Employers may only exclude an applicant or employee if, based on the available information and consideration of the factors delineated in the FCRSS, a reasonable person would conclude that employing the applicant or employee would pose a specific unacceptable risk to the operation of the business or to coworkers or customers.

Once the background check is completed, if the employer intends to reject an applicant or employee based in whole or in part on their criminal record, the employer must provide the individual with written notice of the provisional decision, identify the specific conviction(s) considered, and provide a copy of the criminal record. Notices to affected applicants and employees must now also include a summary of the individual’s rights under the FCRSS, a statement that the employer will consider evidence of any error in the criminal history records and evidence of rehabilitation and mitigation



if provided, including the types of evidence that may be offered, and instructions on how the applicant or employee can provide evidence or explanation directly to the employer. The employer must give the individual 10 business days to provide evidence of any inaccuracies or explanation of any record before it can make a final determination concerning employment.

The amendments specify the types of rehabilitation and mitigation efforts that the employer must consider, and of which it needs to notify the applicant or employee, including: completion of a mental health or substance use disorder treatment program; completion of a job training program; completion of a GED or post-secondary education program; community service; work history in a related field since the conviction or incarceration; and an active occupational, commercial driver or other necessary licensure for the job.

The amendments empower the PCHR, or another city department or office designated by the mayor, to issue regulations implementing and interpreting the new notice requirements and to create forms to be used to comply, including a form of required notice, summary of rights under the FCRSS, and a statement concerning evidence of error or rehabilitation. In the meantime, Philadelphia employers should evaluate their existing background check notices and forms to evaluate compliance with the amendments, as well as existing requirements under Pennsylvania law and the federal Fair Credit Reporting Act.

Philadelphia Enacts POWER Act Expanding Worker Protections – Eff May 27, 2025

On May 27, 2025, Philadelphia enacted the [Protect Our Workers, Enforce Rights \(POWER\) Act](#), which expanded enforcement provisions of various employment laws, amends paid sick leave provisions, strengthens wage theft provisions, creates new wage and hour protections for domestic workers, and adds anti-retaliation protections for workers, among other changes. The POWER Act took effect immediately on May 27, 2025, and impacts all employers operating within the city's geographic boundaries.

Changes to Paid Sick Requirements

The POWER Act revised the [Promoting Healthy Families and Workplaces Act](#), the city's paid sick leave law. Key revisions include those discussed below.

Employer Notice Requirements

Employers are required to provide employees with notice of rights and privileges provided by the law, including information on how to file a complaint for violations and stating that retaliation is prohibited. The POWER Act removed the requirement that the notice be included in employee handbooks; otherwise, the requirements for posting the notice are substantially the same as before the amendments.

A new workplace poster from the [Philadelphia DOL](#) has yet to be released.

Enforcement of Worker Protection Ordinances

The POWER Act also authorizes the Philadelphia Department of Labor's (DOL) Office of Worker Protections (OWP) or any other agency designated to enforce worker protection ordinances, including city paid sick leave laws, wage theft ordinances, domestic worker protections, fair workweek employment standards and anti-retaliation provisions

Amendments to Wage Theft Provisions

The POWER Act changed the definition of "employee" under the [Wage Theft Complaints law](#). Previously, under the Wage Theft Complaints law, "employee" had the same meaning as "employee" under the Pennsylvania Minimum Wage Act (MWA). The POWER Act amended the definition of "employee" to include any individual who meets the definition of employee under the MWA or the federal Fair Labor Standards Act, as well as any individual who is employed by an "employer" as defined by the Pennsylvania Wage Payment and Collection Law (WPCL). The POWER Act also clarified that any conduct that constitutes wage theft is a violation of the WPCL to the extent permissible under federal and state law and that each week during which an employee has suffered wage theft is a separate violation of the law.



Employer Notice Requirements

The new law requires employers to notify employees of their rights in English and in any language spoken by at least 5% of the employer's workforce. Employers may comply with this requirement by distributing written notices or posting multilingual posters in conspicuous workplace locations. Failure to comply with the POWER Act's notice requirements can result in civil penalties of up to \$2,000 per violation.

Recordkeeping Requirements When Resolving Disputes

The POWER Act amended employers' recordkeeping requirements when resolving wage theft disputes. Under the new law, in situations where the employer fails to keep records of an employee's hours worked or compensation provided to an employee (or if the records are imprecise or inadequate), the employee may meet their burden of proof by providing sufficient evidence to support a just and reasonable estimate of the wages owed. This evidence may include text messages, emails, other written communications, photographs, location data, and written or oral statements made by the complainant to the OWP.

In addition, an employer's failure to provide any records or allow the OWP reasonable access to the records within 30 days of the request raises a presumption that the wages complained of were not paid, absent clear and convincing evidence to the contrary.

Retaliation Protections

The new law added a provision protecting employees from retaliation. Under the POWER Act, it is unlawful for a hiring entity to interfere with, restrain, deny or attempt to deny the exercise of any right set forth under the worker protection ordinances or to retaliate against an employee (or an employee's family member) for any good-faith act to assert their rights protected under the law, including:

- Seeking information about their rights;
- Communicating with another person about their rights or an alleged violation;
- Opposing or refusing to participate in any practice that violates any worker protection ordinance;
- Making an oral or written complaint to an employer;
- Filing a complaint with the OWP or a court of competent jurisdiction; or
- Providing evidence or participating in a proceeding related to a formal or informal complaint.

The new law also establishes the elements for proving a claim for retaliation, enforcement and penalty provisions, including a private right of action, and a fast-track process for investigating complaints of unlawful retaliation. This includes protections against adverse actions, such as termination, demotion or any form of discrimination. Additionally, there is a rebuttable presumption of unlawful retaliation if the adverse action occurs within 90 days of the employee filing a complaint, cooperating with the OWP, opposing any policy or practice that is unlawful under the POWER Act, or informing any person about their employer's alleged violations of the law. Employers have 15 days to remedy the harm before a civil action for damages may be initiated. This waiting period does not apply to claims involving willful misconduct or retaliation.

Pittsburg Increases Paid Sick Leave – Eff Jan 1, 2026

Pittsburgh has [amended](#) the city's Paid Sick Days Act to provide faster accrual of sick time and increase paid sick leave hours. The amendments take effect **Jan. 1, 2026**.

New Accrual Rate and Maximum

When the changes take effect, all employers will be required to allow their employees to accrue paid sick time at the rate of at least one hour per every 30 hours (up from 35) worked in Pittsburgh.

In addition, under the amendments, employers will have to allow a maximum accrual of at least the following amounts:

- **Employers with 15 employees or more:** 72 hours per year (or at any time); and
- **Employers with fewer than 15 employees:** 48 hours per year (or at any time).

Previously, employers with at least 15 employees could cap accrual at 40 hours, while smaller employers could set the maximum at 24 hours.



Carryover and Front-loading

Accrued, unused paid sick time carries over to the following year, but employers may avoid this requirement if they front-load the following amounts of the leave at the beginning of each calendar year:

- **Employers with 15 employees or more:** 72 hours; and
- **Employers with fewer than 15 employees:** 48 hours.

ETC will release an updated State Handbook Addendum in advance of the effective date.

PA Now Permits Direct Deposit Payment of Workers' Compensation Benefits

On Oct. 29, 2024, Pennsylvania amended its workers' compensation laws to provide standards by which self-insured employers pay their employees workers' compensation benefits. These new standards allow self-insured employers to permit direct deposit of workers' compensation benefits and provide the requirements for doing so.

This requirement goes into effect on Dec. 29, 2024. However, on Dec. 29, 2025, all self-insured employers must permit payment by direct deposit. Interested employers are advised to check out the state's website to learn more.

State Amends Data Breach Reporting Law – Sept 26, 2024

On June 28, 2024, Pennsylvania enacted [Senate Bill 824](#) (SB 824), which makes significant changes to the state's [Breach of Personal Information Act](#) (the Act). SB 824 establishes new requirements to notify the Office of the Attorney General of certain types of data breaches, changes the thresholds related to notifying credit reporting agencies, and, under certain conditions, requires organizations to provide free credit report and credit monitoring services to individuals whose information was compromised by a data breach. The amended version of the Act goes into effect on Sept. 26, 2026.

Employer Takeaway: Organizations that are covered by the Act should evaluate and update their data breach response plans and procedures to ensure that the new requirements are met. Additionally, organizations are advised to assess their cyber insurance policies and the corresponding limits to determine if they are adequate in light of the new requirements.

Changes to Regulatory Notification

Once SB 824 takes effect, whenever an organization provides notice of a data breach under Pennsylvania law to more than 500 residents of the state, it will also be required to concurrently notify the Pennsylvania attorney general. The notice to the Pennsylvania attorney general will need to include the following information:

- The organization's name and location;
- The date of the breach;
- A summary of the breach incident;
- An estimated total number of individuals affected by the breach; and
- An estimated total number of individuals in Pennsylvania affected by the breach.

Changes to the Threshold for Notice to Credit Reporting Agencies

- The Act currently requires any organization providing notice of a data breach to 1,000 or more Pennsylvania residents to **also** provide notice to the consumer reporting agencies that compile and maintain files on consumers on a nationwide basis.
- SB 824 lowers that threshold from 1,000 to 500.
- Any organization that is providing notice to 500 or more individuals will also need to notify the credit reporting agencies as defined by section 603 of the Fair Credit Reporting Act.

New Credit Reporting and Credit Monitoring Requirements

Under SB 824, organizations will be required to provide impacted Pennsylvania residents with free access to credit reporting and credit monitoring services if:

- There was a data breach as defined by Pennsylvania law; and



- The data accessed in connection with the breach included the individual's name (first and last name or first initial and last name) in combination with the individual's Social Security number, bank account number or driver's license/state identification card number.

If these two conditions are met, organizations must provide the impacted individuals with:

- Access to one independent credit report from a consumer reporting agency if the individual is not eligible to obtain an independent credit report from a consumer reporting agency for free under the federal Fair Credit Reporting Act; and
- Access to credit monitoring services for a period of 12 months following notification. An entity may satisfy the requirements of this paragraph by providing notice to the individual of the availability of monitoring services for a period of 12 months at no cost to the individual.

Rhode Island

State Minimum Wage Increase – Eff Jan 1, 2026

The state's minimum wage will increase to \$16 per hour. The minimum base wage for tipped employees will remain at \$3.89 per hour.

Temporary Caregiver Insurance (Paid Medical Leave) Expands – Eff Jan 1, 2026

Employees will be able to use Temporary Caregiver Insurance (TCI) for two new reasons:

- To care for a **sibling** who has a serious health condition
- For **bone marrow and living organ donation** (retroactive to January 1, 2025)

As a reminder, also on January 1, TCI benefits will increase up to a maximum of eight weeks in a benefit year.

Learn more on the Rhode Island Department of Labor and Training [website](#).

RI State Handbook Addendum updated and distributed alongside the October HR WIRE ahead of the Jan 1, 2026 effective date.

Human Trafficking Training for Hotel Employees – Eff Jan 1, 2026

ETC rarely follows or reports industry -specific enactments, however, hotel employers should be aware that hotel employees will be required to complete human trafficking awareness training within 180 days of hire, and each calendar year thereafter. The training will need to include specific components and be approved by the state. Records of employee training need to be kept for the duration of employment, plus one year. Hotels will also be required to create a policy for reporting suspected human trafficking to the National Human Trafficking Hotline or local law enforcement.

Reminder: New Written Notice – Payment of Wages – Eff January 1, 2026

The [Amended](#) Rhode Island Payment of Wages Act will require employers to provide all new hires with a written notice (in English) containing the following information:

- the employee's rate of pay and basis thereof (e.g. hourly, salary, commission, etc.), and the specific application of any additional rates;
- allowances, if any, claimed for meals and lodging;
- the employer's policy on sick, vacation, personal leave, holidays, and hours;
- the employee's employment status and whether they are exempt from minimum wage and/or overtime;
- a list of deductions that may be made from the employee's pay;
- the number of days in the pay period, the regularly scheduled payday, and the payday on which the employee will receive their first pay;
- the employer's contact information, including the employer's legal name and any operating names, the physical and mailing addresses of the principal place of business, and telephone number.



Employers must retain a copy of the notice, signed by each employee, acknowledging their receipt. Employers will be subject to a \$400 fine for a first or second violation; subsequent violations are considered misdemeanors and may result in a minimum penalty of \$400 and/or imprisonment of up to one year.

State Rules Clarify Sunday & Holiday Premium Pay Calculations – Eff Aug 17, 2025

Employer Takeaway: RI Employers are advised to review the new rules and determine whether they are in compliance with the state's overtime pay obligations and whether they may be considered a retail or wholesale business.

The Rhode Island Department of Labor and Training (DLT) issued new rules that clarify what constitutes “retail businesses” regarding calculations of overtime pay requirements and premium pay for work on Sundays and holidays. The rules confirm the general understanding of the overtime and premium pay requirements but provide additional certainty for employers on which businesses are and are not considered retail.

- The Rhode Island DLT has established new rules defining “retail businesses” and clarifying overtime and holiday pay calculations, emphasizing that only those selling directly to consumers qualify.
- The rules clarify that retail businesses can count Sunday and holiday hours towards overtime calculations, impacting how premium pay is administered during those periods.

Effective August 17, 2025, the DLT regulation, [“Payment of Wages, Employer Exemptions from Weekly Pay, and Exemptions for Work on Holidays and Sundays,”](#) (260-RICR-30-05-2) outlines rules and procedures related to the payment of wages, exemptions from weekly pay requirements, and exemptions from premium pay for work on Sundays and holidays.

Specifically, the rules define “retail businesses” as those that sell directly to consumers and not to other businesses. This distinction is critical for calculating overtime and Sunday and holiday pay, as retail businesses are allowed to count Sunday and holiday pay against any overtime hours worked.

Definition of Retail Business

The rules define “retail businesses” as establishments “engaged primarily in the sale of goods or services directly to the general public” and that “operate[] at the end of the distribution chain, selling in small quantities to the ultimate consumer in a manner consistent with other consumer goods and services.”

The rules distinguish retail businesses from those that “engage primarily in resale, wholesale transactions, or manufacturing” and provide products or services generally recognized as retail sales. The rule explicitly excludes “businesses that primarily prepare and sell food for immediate consumption” and “wholesale operations that serve other businesses rather than individual consumers.”

Overtime Pay Requirements

Rhode Island law requires that nonexempt employees be paid one-and-a-half times their regular rate of pay for any hours worked over forty in a week, which is consistent with the federal Fair Labor Standards Act (FLSA). Additionally, employees are entitled to a premium pay equal to one-and-a-half times their rate for hours worked on Sundays and holidays.

For most employers, overtime and Sunday holiday pay hours are calculated separately, meaning employers may be required to pay employees both time-and-a-half for hours worked over forty and time-and-a-half for any hours worked on Sundays or holidays.

Retail businesses are not exempt from Sunday or holiday premium pay requirements, but they can count the Sunday and holiday hours against the overtime hours. That means an employee at a retail business who works forty-eight hours in a week, including an eight-hour shift on Sunday, would only be entitled to eight hours of time-and-a-half pay covering both the overtime and Sunday premium.



The exception is if the retail workers are covered by a collective bargaining agreement that provides premium pay for Sundays or holidays. In such cases, employers must comply with the terms of the agreement, even if they are otherwise exempt from premium pay requirements.

Accommodations for Menopause & Expanded Protections for Race – Eff June 24, 2025

The laws below were passed recently and took immediate effect. They apply to **employers with four (4) or more employees unless otherwise noted.**

GROUNDBREAKING PROTECTIONS FOR MENOPAUSE

The Rhode Island Fair Employment Practices Act already required employers with at least four employees to provide reasonable accommodation related to pregnancy, childbirth, or a related medical condition, including lactation or the need to express breast milk for a nursing child. Effective June 24, 2025, the Act is [amended](#) to require employers to also provide reasonable accommodation for an applicant's or employee's menopause or related condition, including, but not limited to, "the need to manage the effects of vasomotor symptoms."

Updated Notice

The reasonable accommodation amendment triggers an obligation for Rhode Island employers to display and distribute an [updated Written Notice of Employee Rights](#).

ETC is releasing the applicable State Handbook Addendum reflective of a policy addressing such accommodations.

EXPANDED PROTECTIONS FOR RACE

The state now defines **race** to include traits historically associated with race, including hair texture and protective hairstyles, such as Afros, twists, and cornrows. While the law calls out hairstyles specifically, the change could result in wider applications, such as protections for dialect and styles of dress.

Employers should evaluate any policies that limit hairstyles, including policies that contain indirect restrictions, like those that limit length. If you feel that you can't resolve a conflict between protected hairstyles and safety, we recommend consulting an attorney before taking adverse action against an employee.

Employer Takeaways:

- Update your Equal Employment Opportunity (EEO) policy to include traits associated with race, if your Handbook does not already include "traits historically associated with race, including hair texture and protective hairstyles, such as Afros, twists and cornrows". ETC's released EEO Policy includes such references.
- Review (and if needed, revise) your dress code, grooming, or appearance policies to ensure they don't prohibit protected hairstyles or dress.
- Talk to managers and those involved in the hiring process about not making judgments about professionalism or cultural fit based on an applicant or employee's hairstyle.

CAPTIVE AUDIENCE RESTRICTIONS

Employers of all sizes can't take—or threaten to take—adverse action against an employee to get them to attend, or for not attending, an employer-sponsored meeting if its primary purpose is to express the employer's opinion on religious or political matters (including labor organizing). The same applies to participating in or viewing communications for this purpose. These types of laws are primarily aimed at preventing employees from being forced to attend anti-unionization meetings.

The law contains several exceptions, including for communications that are legally mandated or essential for an employee's job duties and many communications within religious institutions.

NEW WRITTEN NOTICE – PAYMENT OF WAGES – Eff January 1, 2026



The [Amended](#) Rhode Island Payment of Wages Act will require employers to provide all new hires with a written notice (in English) containing the following information:

- the employee's rate of pay and basis thereof (e.g. hourly, salary, commission, etc.), and the specific application of any additional rates;
- allowances, if any, claimed for meals and lodging;
- the employer's policy on sick, vacation, personal leave, holidays, and hours;
- the employee's employment status and whether they are exempt from minimum wage and/or overtime;
- a list of deductions that may be made from the employee's pay;
- the number of days in the pay period, the regularly scheduled payday, and the payday on which the employee will receive their first pay;
- the employer's contact information, including the employer's legal name and any operating names, the physical and mailing addresses of the principal place of business, and telephone number.

Employers must retain a copy of the notice, signed by each employee, acknowledging their receipt. Employers will be subject to a \$400 fine for a first or second violation; subsequent violations are considered misdemeanors and may result in a minimum penalty of \$400 and/or imprisonment of up to one year.

State Amends Its Temporary Caregiver Insurance (TCI) Law – Jan 1, 2025

Rhode Island amended its state temporary caregiver insurance (TCI) law ([HB 7171](#)) to provide extra paid leave for eligible workers. The additional allowance will be phased in over two years, with seven weeks of leave becoming available on Jan. 1, 2025, and eight weeks available on Jan. 1, 2026. The amendments also increase the dependents' allowance for recipients of TCI and temporary disability insurance (TDI).

TDI is income support for individuals out of work for non-work related illness or injury; TCI is income support (up to 6 weeks, pre Jan 1, 2025) for individuals out of work to care for seriously ill child, spouse, domestic partner, parent, parent-in-law, or grandparent, or to bond with a newborn child, adopted child or foster child. TDI/TCI are financed entirely by payroll deductions. Employees receiving TCI while out on leave cannot continue to work and take leave on an intermittent basis, but they must remain out on leave for the entire duration of the leave period to collect benefits.

Enacted in 2014, Rhode Island's TCI program currently provides eligible claimants with up to six weeks of paid leave to care for a seriously ill child, spouse, domestic partner, parent, parent-in-law or grandparent, or to bond with a newborn child or new adopted or foster-care child. Learn more at the [RI Department of Labor TDI/TCI For Employer Webpage](#)

State Enacts New Consumer Data Privacy Law – Jan 1, 2025

Rhode Island enacted the Rhode Island Data Transparency and Privacy Protection Act (DTPPA), a comprehensive consumer data protection law. The DTPPA provides Rhode Island residents with new rights related to their personal information and imposes requirements on how personal information can be collected, controlled and shared by certain businesses referred to as "controllers." The new law takes effect on **Jan. 1, 2026**.

Covered Entities

The DTPPA applies to any controller that conducts business in Rhode Island (or produces products or services targeted to residents of Rhode Island) within the preceding calendar year and who:

- Controlled or processed personal data of at least 35,000 Rhode Island customers, excluding instances where controllers are processing data solely for the purpose of completing a financial transaction; or
- Controlled or processed personal data of 10,000 Rhode Island customers and derived more than 20% of their gross revenue from the sale of personal data.

Under the DTPPA, "controller" is defined as individuals or legal entities that determine the purpose and means of processing personal data. Notably, state and local governments, nonprofit organizations, institutions of higher education, national securities associations, and entities subject to the Health Insurance Portability and Accountability Act (HIPAA) or the Gramm-Leach-Bliley Act (GLBA) are all exempt from the DTPPA.



Covered Personal Data

The DTPPA applies to personal data that is linked or reasonably linkable to an identified or identifiable individual and does not include de-identified data or publicly available information.

The DTPPA provides heightened protections and rules around “sensitive data.” Under the law, “sensitive data” refers to data revealing racial or ethnic origin, religious beliefs, mental or physical health condition or diagnosis, sex life, sexual orientation, or citizenship or immigration status; the processing of genetic or biometric data for the purpose of uniquely identifying an individual; the personal data of a known child; or precise geolocation data.

Certain types of data are excluded from the DTPPA. Notably, the DTPPA does not cover data processed or maintained during an individual’s employment.

Consumer Rights

Under the DTPPA, residents of Rhode Island have the following rights with respect to data collected by covered entities that conduct business in the state or produce products or services targeted to residents of the state:

- Confirm whether a controller processes their personal data and access such data, unless a trade secret would be revealed;
- Obtain, on an annual basis, a copy of their personal data held by the controller in a readily usable format;
- Correct inaccuracies in their personal data;
- Delete their personal data; and
- Opt out of the processing of their personal data for the purposes of targeted advertising, the sale of their personal data, or profiling.

Controller Requirements

Under the DTPPA, controllers must:

- Establish and maintain reasonable administrative, technical and physical data security practices to protect the confidentiality, integrity and accessibility of personal data;
- Limit data processing to what is adequate, relevant and necessary for the controller’s purposes;
- Obtain consent before processing sensitive personal data;
- Conduct a data protection impact assessment on the processing of personal data that presents a heightened risk of harm to the customer;
- Provide customers with a mechanism to grant and revoke consent when required;
- Require, through contract, any processors who will process personal data on behalf of the organization to adhere to specific data protection obligations, including ensuring the security of the processing.

Enforcement

The DTPPA contains no private right of action, and the Rhode Island Attorney General has exclusive enforcement authority for the law. Violations of the DTPPA will be considered a violation of the Rhode Island Deceptive Trade Practices Act, under which each violation can incur civil penalties of up to \$10,000 per violation. Additionally, the DTPPA provides for fines up to \$500 for unauthorized disclosures of personal data.

State Passes Secure Choice Retirement Savings Program

On June 26, 2024, [Senate Bill 2045](#) was signed into law, establishing a state-operated retirement savings program called Rhode Island Secure Choice. Employers who do not already offer a retirement savings plan will be required to offer workers access to the Secure Choice program, which will be administered by the Office of the General Treasurer and implemented in phases. An “eligible employer” is generally defined as one that has five or more employees. Employers with less than five employees have the option of participating in the program. Rhode Island employers with at least five employees that do not already offer a retirement plan will be required to sign up for Secure Choice.

Phased Implementation:

There will be a phased implementation period, as follows:

- Employers with **100 or more employees** will have to participate **within 12 months** of the program opening;
- Employers with **50 or more employees** will have to participate **within 24 months** of the program opening; and



- All other eligible employers will have to participate within **36 months** of the program opening.

Employer Takeaway: Employers will have no liability or fiduciary duty to employees in relation to the program; however, employers will be subject to penalties of \$250/eligible employee if the employer fails to allow the eligible employees to participate. More to come as guidance and details are released.

South Dakota

State Increases Minimum Wage – Jan 1, 2026

On January 1, 2026, South Dakota's minimum wage will increase to \$11.85 per hour. The minimum base wage for tipped employees will increase to \$5.93 per hour (*technically* \$5.925).

State Clarifies Medical Cannabis Protections – July 1

South Dakota has updated its workplace medical cannabis law to clarify that employers can refuse to hire an applicant for a safety-sensitive job or take adverse action against an employee in a safety-sensitive job based on a test result that is positive for cannabis metabolites. The law takes effect **July 1, 2024**.

Employer Takeaway: Ensure that all safety-sensitive positions are documented as such in job descriptions and ads. If you plan to make employment decisions based on a positive test result for cannabis metabolites with respect to safety-sensitive positions, make that clear in all related policies.

Texas

State Enacts New Law for Employers Using Artificial Intelligence Eff Jan 1, 2026

Governor Greg Abbott signed the Texas Responsible Artificial Intelligence Governance Act (TRAIGA, [HB 149](#)) into law which becomes effective on January 1, 2026.

Recommendations for Employers Utilizing AI Tools in Employment Candidate Software

If an employer's Applicant Tracking System (ATS), resume-screener, or candidate-matching AI tool could inadvertently display intent to discriminate against protected groups, an employer may be at risk even without disparate impact alone.

Employers should audit their AI systems and the use of those systems to make decisions to confirm the tools do not intentionally discriminate against applicants or employees. Implementing AI policies and trainings about appropriate AI use can help to mitigate the risk of intentional discrimination. Employers should also ask their AI vendors to confirm that any tools do not intentionally discriminate against a protected group. Although the Texas law does not cover disparate impact discrimination, employers should still monitor AI tools for adverse effects against a protected group and ensure all tools are job-related.

Compliance hinges on establishing internal governance: AI oversight teams, documentation of data use and outputs, testing, and mitigation steps for prohibited intents. We recommend that anyone using AI tools for making employment decisions establish a governance team, which would include, among others, an Industrial/Organizational Psychologist who can evaluate things like the adverse effects, intent, and job-relatedness of AI tools.

Upcoming Changes – Healthcare Non-competes in Texas – Eff September 1, 2025

A new Texas law that restricts the use of noncompete clauses in physician and other health care practitioner employment contracts entered into or renewed on or after September 1. With [Senate Bill 1318](#), signed by Governor Greg Abbott on June 20, 2025, Texas makes significant changes to its [law](#) governing noncompete clauses in physician and other health care practitioner contracts. The Texas amendment follows a recent nationwide trend to restrict or eliminate noncompete clauses in health care provider contracts.

Provisions Overview



- Noncompete clauses must expire after one year and be limited to a five-mile radius from the practitioner's main practice location
- The noncompete limitations cover physicians as well as dentists, nurses, and physician assistants
- Current contracts are not affected, but any new agreements or contract renewals on or after September 1 are subject to the new law

Employer Takeaways

With the adoption of SB 1318, health care employers may need to adjust their contract terms to align with the new legal landscape. Health care employers should consider the following steps before SB 1318 goes into effect on September 1, 2025:

- Update contract templates to reflect the one-year duration, five-mile radius, and buyout ceiling requirements for use in drafting new contracts entered into after the effective date.
- Include a defined "primary practice location" in contracts.
- Inventory existing contracts that will renew after September 1, 2025, and note how they may need to be amended to comply with SB 1318.
- Ensure termination procedures include clear documentation of when termination is for good cause, including provider conduct or job performance issues that prompted the termination.

State Expands Medical Marijuana Law – Eff September 1, 2025

Texas permits the use of low-THC medical marijuana to treat certain health conditions – and a new law will significantly expand the program starting September 1. In addition to changing the measurement of allowable THC levels, HB46 adds qualifying health conditions, authorizes more dispensaries, and expands permissible cannabis products (like lotions and some vapes).

This means Texas employers may see an uptick in employee cannabis use and accommodation requests. Notably, the new law does not provide employment protections.

What's Changing Under the New Law?

- The Texas Compassionate-Use Program (TCU) has been on the books since 2015, but it was historically too limited to be widely considered a comprehensive medical marijuana program.
- The CUA has authorized specially licensed physicians to recommend low-THC cannabis products to patients with certain medical conditions for the past decade. This includes epilepsy, seizure disorders, multiple sclerosis, spasticity, amyotrophic lateral sclerosis, autism, cancer, post-traumatic stress disorder, and incurable neurodegenerative diseases.
- During the latest legislative session, Texas lawmakers passed and Governor Abbott signed HB46, which expands the qualifying medical conditions to include conditions that cause chronic pain, traumatic brain injuries, Crohn's disease or other inflammatory bowel disease, terminal illnesses or other condition for which the patient is receiving hospice or palliative care, and medical conditions that are approved for cannabis use as part of research programs.
- The new law changes the allowable amount of THC from 1% by weight to 10 milligrams per dose and 1 gram per package. It also authorizes more dispensaries, and permits additional cannabis products, including lotions, patches, and certain vapes and inhalers (though smoking is not allowed).
- Although the Texas Compassionate-Use Program is still limited compared to other states, the expansion under HB46 has led some advocates to now consider Texas [the 40th state with a comprehensive medical marijuana program](#).
- Still, the Texas CUA does not create employment protections for workers, and the upcoming revisions to the law will not change that. But that doesn't mean employers should ignore potential risks. For example, we expect to see employees raise arguments under the Texas Labor Code, which says:

An employer does not commit an unlawful employment practice by adopting a policy prohibiting the employment of an individual who currently uses or possesses a controlled substance as defined in Schedules I and II of the Controlled Substances Act ... other than the use or possession of a drug taken under the supervision of a licensed health care



professional or any other use or possession authorized by the Controlled Substances Act or any other federal or state law.

While employers will maintain that cannabis is still illegal under federal law and thus may continue to take the position that applicants and workers are not entitled to workplace protections for their cannabis use, we may see plaintiffs' attorneys challenge denials of accommodation under this state law.

Texas Bans COVID-19 Vaccines Effective Feb 7, 2024

The Texas Legislature is in special session and decided to enact a law, which Governor Greg Abbott is promising to sign, that bans the use of COVID-19 vaccine requirements by private employers.

The law, **Senate Bill 7**, takes effect **February 7, 2024**, and prohibits private employers from taking adverse action against contractors or workers who decline to be vaccinated. Violators will be fined \$50,000, although it's unclear whether that is per employee or overall. The Texas Workforce Commission (TWC) will take complaints from employees who assert the law is being violated. The attorney general's office will file suit for violations. There's no private claim, so individuals can't sue their employers under the law.

Utah

State Adds Military Protections

Utah has re-enacted and expanded its military protections—the [Utah National Guard Amendments](#) law was signed and took effect immediately on **March 18, 2024**. The law requires employers of **all sizes** to provide military leave and other employment rights.

Specifically, employers are required to:

- Provide up to five (5) years of leave to employees who are members of a reserve component of the U.S. Armed Forces when they are ordered to active duty (including for training), inactive duty training, or state active duty
- Provide employees who are called to service in the Utah National Guard or the Utah State Defense Force with the same rights and protections provided by federal law for employees that are called to federal military service
- Restore these employees to their job at the completion of their service with the seniority, status, rate of pay, and rate of vacation accrual that they would be entitled to under the Uniformed Services Employment and Reemployment Rights Act (USERRA)

Action Item

Review your Company's USERRA/Military Leave Policy to ensure no updates are needed.

ETC's USERRA/Military Leave Policy does not pose a compliance issue or conflict with state protected State Defense Force services, although employers may elect to add additional clarification language, if so inclined.

Below is Paragraph 1 extracted from ETC's USERRA/Military Leave Policy with policy clarification language added for review, consideration and possible inclusion in your own Policy:

In compliance with the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), all employees are immediately eligible for an unpaid military leave of absence. A military leave will be granted if an employee is absent in order to serve in the uniformed services of the United States for a period of up to 5 years (not including certain involuntary extensions of service). Employees who perform and return from service in the Armed Forces, the Military Reserves, the National Guard, Federal Emergency Management Agency reserves, certain Public Health Service positions and/or any other category designated by the President in time of war or emergency, **and/or State Defense Force or the like, when mandated by state regulations** will retain certain rights with respect to reinstatement, seniority, layoffs, compensation, length of service promotions, and length of service pay increases as required by applicable federal or state law.

Utah Voids Confidentiality Pacts for Sexual Assault and Harassment



Under a new Utah law, [House Bill \(HB\) 55](#), certain nondisclosure and nondisparagement (confidentiality) agreements related to sexual assault and harassment required as a condition of employment are rendered void and unenforceable. The new law is retroactive to Jan. 1, 2023. Enacted on Feb. 28, 2024, the law also prohibits employers from retaliating against an employee for alleging sexual misconduct or refusing to enter confidentiality agreements.

Unenforceable Agreements

Under HB 55, an agreement is deemed void and unenforceable if it is between an employee (or former employee) and employer (of any size) and either:

- Prevents, or has the effect of preventing, an employee from disclosing or discussing sexual assault, sexual harassment or allegations of sexual assault or harassment; or
- Prohibits, or has the effect of prohibiting, an employee from making a negative statement about the employer related to a claim of or dispute involving sexual assault or sexual harassment.

Permitted Agreements

Employers may still require an employee who has alleged sexual misconduct not to disclose the monetary amount of a settlement. In addition, employers may still require employees to sign post-employment restrictive covenants and agree not to disclose nonpublic trade secrets, proprietary data and confidential information that does not involve illegal acts.

Employer Takeaway:

If an employer attempts to enforce a confidentiality clause deemed void under the new law, the employer may not obtain monetary damages resulting from a breach of the clause and instead may be ordered to all costs, including reasonable attorney fees, resulting from the legal action.

Vermont

State Increases Minimum Wage – Jan 1, 2026

On January 1, 2026, Vermont's minimum wage will increase to \$14.42 per hour. The minimum base wage for tipped employees will increase to \$7.21 per hour. Vermont's minimum wage applies to employers that have two or more employees. Employers that have only one employee can pay the federal minimum wage.

Expanded Short-term & Parental Leave Allowances – July 1, 2025

The Governor of Vermont signed House Bill 461, [H. 461](#), substantially expanding the Vermont Parental and Family Leave Act. The changes go into effect on July 1, 2025.

Short term Family Leave is applicable to employers with 15 or more employees who work an average of 30 hours per week over the course of an entire year while Parental Leave covers employers with 10 or more workers who work an average of 30 hours per week over the course of an entire year.

Key changes:

- Expansion of reasons for leave. Previously the law permitted an employee to take leave for their own serious health condition or the serious health condition of certain family members, the employee's pregnancy, and bonding with a new child.
 - The amendment expands the permissible reasons for leave to include bereavement leave, safe leave for reasons related to domestic violence, sexual assault, or stalking, and leave for a qualifying military exigency.
 - The amendment permits up to 2 weeks for bereavement leave (within the overall 12-week entitlement), permitting up to 5 days to be used consecutively.
 - The law also expands the leave an employee can take to bond with an adopted child to children 18 years and under (from 16).



- Eligibility. Previously the law required an employee to have worked an average of 30 hours per week within the prior year to be eligible for leave. The amendment keeps that requirement but expands eligibility to employees who meet the service requirements set forth in the Federal Family Medical Leave Act for airline flight crews.
- Expansion of Covered Relationships. Prior to the amendment, the law permitted an employee to take leave for the serious health condition of their child (including a stepchild, ward, or foster child), parent, parent-in-law, and spouse. The amendment expands this to include all of the following relationships:
 - Child:
 - employee's biological, adopted, or foster child
 - employee's stepchild or legal ward
 - child of the employee's spouse or civil union or domestic partner
 - child to whom the employee stands in loco parentis, regardless of legal documentation
 - individual to whom the employee stood in loco parentis when the individual was under 18 years of age
 - an individual for whom the employee provides caregiving responsibilities similar to those of a parent-child relationship
 - Parent:
 - parent of an employee or an employee's spouse or civil union or domestic partner, regardless of whether the relationship to the employee or the employee's spouse or civil union or domestic partner is a biological, foster, adoptive, or step relationship
 - Legal guardian of an employee or employee's spouse or civil union or domestic partner
 - a person who stands in loco parentis for the employee or who stood in loco parentis when the employee or employee's spouse or civil union or domestic partner was under 18 years of age
 - Spouse, Civil Union, Domestic Partner: A person to whom the employee is legally married under the laws of any state or a civil union or domestic partner of an employee
 - Grandparent, grandchild, or sibling of the employee or the employee's spouse or civil union or domestic partner, regardless of whether the relationship to the employee or the employee's spouse or civil union or domestic partner is a biological, foster, adoptive, or step relationship.
- Expansion of Relationships for Short-Term Family Leave. Previously, the law permitted an employee to take up to four hours in any 30-day period, not to exceed 24 hours in any 12-month period leave for:
 - school activities of the employee's child
 - routine medical or dental appointments, or other professional services for the employee's child (including step, foster, or ward), parent, parent-in-law, or spouse
 - to respond to a medical emergency involving the child (including step, foster, or ward), parent, parent-in-law, or spouse

The law expands the covered relationships for all reasons under the Short-Term Family leave to include the same covered relationships listed above.

ETC released an updated State Handbook Addendum June 2025

State Requires Pay Ranges in Job Postings – July 1, 2025

Effective July 1, 2025, Vermont employers with five or more employees, at least one of which works in the state of Vermont, must include the compensation or range of compensation in each job advertisement. The [law](#) applies to any job posting for a position physically located in Vermont or to be filled by a remote worker outside the state who predominantly performs work for an office or work location located in Vermont. Vermont employers must therefore



include the good faith expectation of the minimum and maximum annual salary or hourly wage range for all positions for which they are hiring, including ones open to internal or external candidates and ones into which current employees may be transferred or promoted. There are special rules for commissioned and tipped jobs.

(Amend job postings to include the required information by July 1, 2025. [VT H 704](#) was signed by the governor on June 4, 2024.)

State Limits Captive Audience Meetings – July 1, 2024

Beginning July 1, 2024, employers of all sizes can't take—or threaten to take—adverse action against an employee to get them to attend, or for not attending, an employer-sponsored meeting if its primary purpose is to express the employer's opinion on religious or political matters as per [VT S 102](#) which was enacted on May 28, 2024.

The same applies to participating in or viewing communications for this purpose. These types of laws are primarily aimed at preventing employees from being forced to attend anti-unionization meetings.

This law defines matters as *religious* if they relate to religious affiliation and practice and the decision to join or support any religious organization or institution. Matters are considered *political* if they relate to any of the following:

- Political affiliation
 - Elections for political office
 - Political parties
 - Legislative proposals
 - The decision to join or support any political party or political, civic, community, fraternal, or labor organization
- The law contains several exceptions, including communications that are legally mandated or essential for an employee's job duties and requiring attendance at meetings necessary for an employee to perform their job or to discuss the employer's business operations. Additionally, the restrictions on religious communications don't apply to religious organizations and the political communication restrictions don't apply to political organizations.

Employer Takeaway: Allow employees to opt out of any meeting or communication covered by this law and make sure supervisors understand the law.

State Expands Protections for Race - July 1

Benning July 1, 2024, Vermont has an updated definition of race in its discrimination statute, which applies to employers of all sizes. Race will include traits associated with or perceived to be associated with race. This specifically includes hair type and texture, hairstyles, and protective hairstyles including (but not limited to) braids, cornrows, locs, afros, wigs, headwraps, and other head coverings.

This definition creates a very broad set of protections for employees and has the potential for wide application, such as protecting dialect and styles of dress.

Employer Take-aways:

- Ensure your EEO Policy includes an expanded definition of race:
- Sample Policy language:

COMPANY is an Equal Opportunity Employer that does not discriminate on the basis of actual or perceived race, and traits commonly or historically associated with race including but not limited to hair texture and hair styles such as afros, braids, twists, knots, locks and high-top fades, creed, color, religion, alienage or national origin, ancestry, citizenship status, age, physical or mental disability, pregnancy, sex (including pregnancy, childbirth and related medical conditions), gender identity or expression (including transgender status), marital status, veteran status, sexual orientation, genetic information, arrest record, service in the Armed Forces of the United States, status as a veteran or special disabled veteran, or any other characteristic protected by applicable federal, state or local laws.



- IF you have dress or grooming policies that regulate hairstyles or head coverings, consider whether they're absolutely necessary for your organization. If you believe that they are, consider consulting with an attorney to ensure they don't run afoul of this law.
- Train managers and those involved in the hiring process to not make judgments about professionalism or cultural fit based on how someone wears their hair and to ensure their own unconscious bias doesn't negatively affect candidates or employees.
- Update your equal employment opportunity (EEO) policy to make it clear that race includes traits associated with or perceived to be associated with race

([VT H. 363](#) was signed by the governor on April 25, 2024)

Upcoming State's Paid Leave Expansion – July 1

The Vermont Family and Medical Leave Insurance Plan (FMLI) program will be expanded to private employers this year, Vermont Governor Phil Scott announced. Beginning on Feb. 15, 2024, Vermont employers with at least two employees will have the opportunity to purchase FMLI benefit plans by a new offering from The Hartford. These plans will provide benefits to eligible employees beginning on **July 1, 2024**.

The FMLI program was rolled out in 2023 for state workers and will be making its scheduled expansion to the private sector. The next and final step in the roll-out of this program, beginning in 2025, will allow individual employees and self-employed workers to become able to purchase individual coverage if their employers do not offer it.

The FMLI program is voluntary in the private sector and will provide Vermont workers with 60-percent wage replacement for up to six weeks of work in a 12-month period if they take time off for qualified events. Vermont employers can access more information concerning the program and design a plan through their employee benefits broker or by visiting The Hartford's website.

Employees who work for businesses electing to participate in the voluntary program or who obtain coverage individually will be able to utilize the paid leave benefits for qualified events, including:

- The birth of a child and to care for the newborn child within one year of birth;
- An employee's adoption of a child or foster care placement and to care for the newly placed child within one year of placement;
- Caring for the employee's spouse, child, stepchild, foster child, ward who lives with the employee, parent, or parent of the employee's spouse who has a serious health condition;
- A serious health condition that makes the employee unable to perform the essential functions of their job; or
- Any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on "covered active duty," or to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin (i.e., "military caregiver leave").

Virginia

State Increases Minimum Wage – Jan 1, 2026

On January 1, 2026, Virginia's minimum wage will increase to \$12.77 per hour. The minimum base wage for tipped employees remains at \$2.13 per hour.

New Penalties for Failure to Respond to VEC Unemployment Claims – July 1, 2025

Virginia law now subjects employers to increased penalties if they fail to respond to Virginia Employment Commission (VEC) requests for unemployment benefits information within 10 days. Effective July 1, 2025, repeated noncompliance can result in civil penalties and loss of appeal rights. Below, we explain the changes to the law and concrete steps for employers to take.

Increased Penalties for Failure to Respond to VEC.



[Virginia Code § 60.2-528.1](#) requires employers to “adequately” respond to VEC requests for information regarding unemployment benefits within 10 calendar days of delivery. A response is “adequate” if it provides sufficient and accurate information for the VEC to make a decision on a claim for benefits, such as whether the employee was fired for cause.

The VEC employs a more severe three-tiered system:

- **First failure:** the employer receives a warning letter
- **Second failure:** the employer is assessed an increased civil penalty of **\$100**
- **Third (or additional) failure:** the employer **loses its appeal rights** to the decision **and** will not be credited for any overpayment resulting from the decision'

These determinations remain in effect for the duration of the VEC “review period,” which is a four-year span ending on the June 30 before the VEC’s next yearly recalculation of the employer’s benefit charges.

Employer Takeaway: Employers should be mindful and provide timely responses to the VEC regarding unemployment claims. Employers are offered the option to respond either electronically, by fax, or by mail. More information can be found on the [VEC website](#).

State Enacts New Healthcare Workplace Violence Incident Reporting Requirements – Eff July 1, 2025

Starting July 1, 2025, Virginia will require health care employers to implement a workplace violence incident reporting system under [VA Code § 31.1-127](#). These incident reporting systems will document, track and analyze any incident of workplace violence that has been reported.

The law was enacted to analyze the incidents and allow for improvements in preventing workplace violence, including improvements achieved through continuing education in targeted areas, such as de-escalation training, risk identification and violence prevention planning.

- Employers must have their workplace violence reporting systems in effect by July 1, 2025.
- Hospitals must start reporting to the Department of Health annually the number of incidents of workplace violence voluntarily reported by an employee by **July 1, 2026**

Under the new requirements, “employee of the hospital” or “employee” means an employee of the hospital or any health care provider credentialed by the hospital or engaged by the hospital to perform health care services on the premises of the hospital.

Next Steps: Hospitals should review the new requirements. They need to create and implement a workplace violence incident reporting system. Employers should also review their current programs and policies to ensure they change their workplace violence policies if applicable. Hospitals should also update employee training and notices to include the new requirements so that they are communicated to employees.

New Notice Required for Workers’ Compensation Claim Denials – July 1

Under an [amendment](#) that goes into effect on **July 1, 2024**, employers that deny a covered employee’s request for workers’ compensation benefits in Virginia must provide a specific notice regarding the employee’s rights to dispute the denial.

Covered Employers

The amendment applies to all employers that are subject to the [Virginia Workers’ Compensation Act](#). These include any employer that regularly employs **three or more employees**, all underground coal mine operators regardless of the number of employees, and all “[statutory employers](#).”

Text of Required Notice



The amendment requires any letter denying an employee's request for workers' compensation benefits to include the following text: "EMPLOYEE RIGHT TO DISPUTE DENIAL OF WORKERS' COMPENSATION BENEFITS. IF YOU DISAGREE WITH THIS DENIAL, YOU HAVE THE RIGHT TO DISPUTE THE DECISION BY FILING A REQUEST FOR A HEARING WITH THE VIRGINIA WORKERS' COMPENSATION COMMISSION. IT IS YOUR RESPONSIBILITY TO DISPUTE THE DECISION AS SOON AS PRACTICABLE. THE WORKERS' COMPENSATION COMMISSION IS A STATE AGENCY RESPONSIBLE FOR MAKING FINAL DECISIONS ON DISPUTED WORKERS' COMPENSATION CLAIMS. HOWEVER, SUCH CLAIM MAY BE LOST IF YOU DO NOT FILE IT WITHIN THE TIME LIMIT PROVIDED BY LAW, WHICH IS TYPICALLY TWO YEARS AFTER THE INJURY."

The letter must also include the address, telephone number and website an employee may use to [contact the state workers' compensation commission](#).

Enforcement

An employer (or its insurance carrier) that fails to comply with the new notice requirement may be subject to a civil penalty of up to \$500 per violation. If a violation is willful, the penalty may be increased to between \$500 and \$5,000.

Captive Audience Meetings Limited & Race Protections Expanded – July 1

LIMITS ON CAPTIVE AUDIENCE MEETINGS

Employers can't take—or threaten to take—adverse action against an employee to get them to attend, or for not attending, an employer-sponsored meeting if its primary purpose is to express the employer's opinion on religious or political matters. The same applies to participating in or viewing communications for this purpose. Laws of this type are primarily aimed at preventing employees from being forced to attend anti-unionization meetings.

This law defines matters as *religious* if they relate to religious affiliation and practice and the decision to join or support any religious organization or institution. Matters are considered *political* if they relate to any of the following:

- Political affiliation
- Elections for political office
- Political parties
- Legislative proposals
- The decision to join or support any political party or political, civic, community, fraternal, or labor organization

The law contains several exceptions, including communications that are legally mandated or essential for an employee's job duties and requiring attendance at meetings necessary for an employee to perform their job or to discuss the employer's business operations. Additionally, the restrictions on religious meetings and communications don't apply to religious organizations and the political restrictions don't apply to political organizations.

Employer Take-away: Allow employees to opt out of any meeting or communication covered by this law and make sure supervisors understand the law.

State Expands Protections for Race

Vermont has updated the definition of race in its antidiscrimination statute to include traits associated with or perceived to be associated with race. This specifically includes hair type and texture, hairstyles, and protective hairstyles including (but not limited to) braids, cornrows, locs, afros, wigs, headwraps, and other head coverings. This definition creates a very broad set of protections for employees and has the potential for wide application, such as protecting dialect and styles of dress.

Employer Take-away: If you have dress or grooming policies that regulate hairstyles or head coverings, consider whether they're absolutely necessary for your organization. If you believe that they are, consider consulting with an attorney to ensure they don't run afoul of this law. Additionally, train managers and those involved in the hiring process to not make judgments about professionalism or cultural fit based on how someone wears their hair and to ensure their own unconscious bias doesn't negatively affect candidates or employees.

Lastly, consider updating your Equal Employment Opportunity (EEO) policy to make it clear that race includes traits associated with or perceived to be associated with race. ETC's EEO Policy does include the reference "actual or perceived race, and traits commonly or historically associated with race including but not limited to hair texture and hair styles such as afros, braids, twists, knots, locks and high-top fades."



Eligible Employers Must Register for RetirePath by Feb. 15, 2024

Employers that are required to participate in Virginia's state-facilitated individual retirement account (IRA) savings program—known as [RetirePath Virginia](#)—must register or certify an exemption for the program before **Feb. 15, 2024**. Businesses that fail to act before the registration deadline may face an annual penalty of up to **\$200** per eligible employee.

Covered Employers

Employers in Virginia must participate in RetirePath if they:

- Are a nongovernmental business, industry, trade, profession or other enterprise—whether conducted on a **for-profit or nonprofit basis**;
- Have **25 or more** eligible employees (i.e., those who are employed at least 30 hours per week);
- Have been in operation for **at least two years** prior to the program's implementation; and
- **Do not offer** a qualified retirement plan to their employees.

Eligible employees are automatically enrolled in RetirePath unless they elect not to participate.

Registration Information

RetirePath Virginia, which opened in 2023, sends a series of emails or letters to eligible employers when it is time to register. These communications include a unique access code, registration deadline and instructions. Employers that are unable to find the access code that was previously sent can [request one here](#).

At registration, employers self-certify their eligibility for RetirePath. Employers that already offer a qualified plan or are otherwise exempt can certify an exemption. More details are available [here](#).

Employer Responsibilities

- **Register** (or certify an exemption) with their employer identification number and unique RetirePath access code by **Feb. 15, 2024**;
- **Upload** payroll information and submit employees' contributions; and
- **Keep employee records up to date**. Payroll details must be submitted each pay period.

Employer Resources

RetirePath provides a webpage dedicated to [resources for employers](#), which includes an employer help center, videos and a registration checklist. [FAQs](#) are also available.

Washington

State Announces PFML Premium Rate for 2026 – Eff **Jan 1, 2026**

Washington state has announced an increase to its paid family and medical leave (PFML) [premium rate](#) for 2026. The rate is adjusted annually based on premiums contributed and benefits paid during the previous year.

2026 Premium Rate

Starting Jan. 1, 2026, the PFML premium rate will be **1.13%** of each employee's gross wages, not including tips, up to the 2026 Social Security cap of \$184,500. This is an increase from the 2025 premium rate of 0.92% of wages.

Of the total 1.13% contribution in 2026, employers with 50 or more employees will pay **28.57%**, and employee withholding will cover the remaining 71.43%, a similar ratio as in 2025. Employers may pay some or all of the employees' share on their behalf if they choose. Employers with **fewer than 50 employees** employed in the state are not required to pay the employer portion of premiums, but they are eligible for grant assistance if they do.

Employer Withholding

All employers must withhold employees' premiums from their paychecks and pay the employer's share, if any. The payments are made quarterly, with the filing of employer reports through [SecureAccess Washington](#). First-quarter premiums using the new rate are due by the end of April 2026. Employers may not retroactively withhold premiums from employees.

Upcoming Changes to PFML



2025 amendments to PFML take effect Jan. 1, 2026, and affect different aspects of the program. Among other things, the changes expand job protection, clarify the continuation of health care benefits, limit leave “stacking” with federal FMLA leave, reduce the weekly minimum claim from eight hours to four hours, and expand the small business assistance grant program. Additional notice obligations will also apply to employers in some circumstances.

State’s Minimum Wage & Salary Threshold Increasing – Jan 1, 2026

On September 30, 2025, the Washington State Department of Labor and Industries (L&I) announced upcoming increases to the state minimum wage and salary thresholds for exempt employees, effective on January 1, 2026. Washington currently holds the nation’s highest state minimum wage at \$16.66/hour. Effective January 1, 2026, the state minimum wage will increase to **\$17.13/hour**, reflecting a 2.8 percent increase.

To qualify **as exempt from overtime**, employees must meet a **minimum salary threshold**, as well as a job duties test. Starting January 1, 2026, all Washington employers must pay exempt employees at least 2.25 times the state minimum wage, **equivalent to \$80,168.40/year**.

Updated Local Minimum Wages:

Bellingham

Bellingham’s minimum wage will increase to \$19.13 to remain \$2 more than the state’s minimum wage.

Conflicted Burien

Burien’s minimum wage is still in litigation, but if the ordinance ultimately succeeds, the minimum wage rate will *officially* be \$20.63 (\$3.50 over the state rate) for employers with 21–499 employees in King County, and \$21.63 (\$4.50 over the state rate) for employers with 500+ full-time equivalent employees in King County. Smaller employers remain subject to the state rate.

Everett

The hourly minimum wage in Everett will increase as follows:

- \$20.77 for large employers with more than 500 employees
- \$18.77 for employers with 15–500 employees or annual revenue of over \$2M

For employers with 14 or fewer employees and annual revenue of \$2M or less, the state rate applies.

Unincorporated King County

The hourly minimum wage in unincorporated King County will increase as follows:

- \$18.32 for employers with 15 or fewer employees and less than \$2M in annual revenue
- \$19.82 for employers with 15 or fewer employees and \$2M+ in annual revenue
- \$19.82 for employers with 16–499 employees
- \$20.82 for employers with 500+ employees

Renton

The hourly minimum wage in Renton will increase as follows:

- \$20.57 for employers with 15–500 employees or \$2M+ annual revenue within Renton
- \$21.57 for employers with 501+ employees worldwide

Employers that don’t meet any of the above criteria aren’t subject to the city’s minimum wage, so the state rate applies.

SeaTac Hospitality and Transportation Industry

The minimum wage for hospitality and transportation industry workers in SeaTac will increase to \$20.74 per hour. The state rate applies to those in other industries.

Seattle

Seattle’s minimum wage will increase to \$21.30 per hour for all employers.

Tukwila

The minimum wage in Tukwila will increase to \$21.65 per hour for all employers.

State Regulations Related to Transportation Network Companies – Eff Sept 1, 2025 & July 1, 2026



Washington employers should prepare for two significant legislative updates that will impact Transportation Network Companies (TNCs). Effective September 1, 2025, TNCs must provide drivers with detailed information about vehicle eligibility for each product class offered on their platform, including make, model, and year. Then, by July 1, 2026, drivers will also be entitled to request aggregated, downloadable per-trip receipt data in a searchable format, enhancing transparency around earnings. As this topic is more industry released and beyond what ETC typically reports, access a recent article on the topic published by Seyfarth Shaw, LLP [HERE](#)

State Expands of Domestic Violence Leave – Eff Jan 1, 2026

Effective January 1, 2026: Washington's Domestic Violence Leave Act (DVLA) will expand to include protections for victims of hate crimes, allowing newly-affected employees to access unpaid DVLA leave and safety accommodations (SB 5101). Ahead of the effective date ETC will release an updated State Handbook Addendum. The WA State Handbook Addendum released December 2025 includes language addressing the above enactment.

State Amends Paid Family & Medical Leave Requirements – Eff Jan 1, 2026

Beginning January 1, 2026, Washington State will implement significant amendments to its Paid Family and Medical Leave (PFML) program (Also, SB 5101). These changes will expand employee protections and introduce new compliance obligations for employers, particularly those with smaller workforces.

Starting in 2026, employees who have worked for at least 180 days will be entitled to job restoration if their employer has 25 or more employees. This threshold will decrease to 15 employees in 2027 and to 8 employees in 2028. Employers who previously fell outside the scope of PFML job protection requirements will need to prepare for these new obligations.

Another key change involves the continuation of health insurance benefits. Employers will be required to maintain existing health coverage for employees on PFML leave, provided the employee qualifies for job protection. This aligns PFML more closely with federal FMLA standards and ensures continuity of benefits during leave.

The minimum duration for PFML claims will also be reduced. Currently, employees must take at least eight consecutive hours of leave to file a claim. Beginning in 2026, the minimum claim duration will drop to four hours, allowing for more flexible use of leave.

Employers should also be aware of new notification requirements related to combining PFML with federal FMLA leave.

ETC will provide the updated Notice upon release as well as an updated State Handbook Addendum reflective of necessary Policy changes.

Reminder: State Enacts Mini-WARN Act

Under the federal WARN Act a covered employer who plans to close a facility or implement a mass layoff must provide 60 days' advance notice to the affected employees, the designated state agency, and any union representing the affected employees.

Effective July 27, 2025, Washington joins many other states that have their own "mini-WARN Act." Consequently, employers considering layoffs in Washington state need to review both the federal WARN Act and Washington's new mini-WARN Act to see if the layoff is covered, and if so, to ensure compliance with all requirements under either (or both) statutes.

Key Differences with Mini-WARN Act:

The Washington mini-WARN Act is similar in many ways to the federal WARN Act, but there are some important key differences:



- **Covered Employers:** The federal WARN Act applies to private sector companies with either 100 full-time employees or 100 employees (full-time and part-time) if those employees collectively work at least 4,000 hours per week (not including overtime hours). The Washington WARN Act applies to a private sector employer with 50 or more full-time Washington employees.
 - Under both statutes, “full-time employees” are those who work at least 20 hours a week **and** worked for the employer at least six months out of the 12 months preceding the date notice must be given (note, if the applicable collective bargaining agreement has a different definition that applies).
- **Mass Layoffs:** Both statutes apply to “mass layoffs” but the definitions of “mass layoff” are significantly different. Under the federal WARN Act, a mass layoff occurs when (a) 500+ full-time employees lose their jobs, **or** (b) if 50-499 full-time employees lose their jobs **and** they represent at least 33% of the employer’s total active full-time workforce. Under the Washington mini-WARN Act, a “mass layoff” occurs when 50 or more full-time employees lose their jobs, regardless of what percentage of the workforce they represent.
- **Plant/Business Closure:** Under both federal and state acts, a plant/business closure occurs when 50+ full-time employees at a single site or operating unit are laid off.
- **Short-term Layoffs:** Both statutes have exceptions from coverage under the statute for short-term layoffs (less than six months) even if such layoffs would otherwise be covered. In the case of a short-term layoff of less than three months, however, if the employer later extends that layoff period beyond three months, Washington requires the employer to provide notice to the employees of the extension when it becomes reasonably foreseeable that the extension is required. If the circumstances leading to the extension of a layoff of up to three months were reasonably foreseeable at the time the layoff began, the initial layoff may trigger possible liability for failing to give the 60-days’ advance notice.
- **Notices:** Both statutes require certain information to be in the 60-days’ advance notice, but there are some differences. Covered employers should make sure their notices comply with both.
- **Employees on Paid Family Medical Leave (PFML) leave:** A specific Washington provision is that if a mass layoff is involved, employees currently on Washington PFML cannot be included in the layoff.

These are some of the main differences between the federal WARN Act and the new Washington mini-WARN Act. Both statutes are detailed in application, however, and there are other subtle differences.

Employer Takeaways:

- Employers considering job eliminations, layoffs (permanent or temporary), or facility closures in Washington state should consult with counsel to determine if either or both the federal WARN Act or the Washington mini-WARN Act apply.
- Employers implementing short-term layoffs need to carefully consider the length of those layoffs, given the potential penalties if a layoff less than three months is extended.

Protection from Coercion Based on Immigration Status – Eff July 1, 2025

On May 12, 2025, Washington [amended](#) its Minimum Wage and Labor Standards Act (Act) to protect employees from coercion in the workplace based on their immigration status. This amendment takes effect on July 1, 2025. In Washington, employers are prohibited from retaliating against employees for exercising their rights under the state’s employment laws.

The Act’s amendment prohibits employers from coercing employees based on their or their family member’s immigration status to deter employees from exercising their workplace rights under Washington employment law. Under the amendment, “**coercion**” means a threat to compel or induce a person to engage in or abstain from conduct they have a legal right to pursue or avoid. The amendment defines “**threat**” as any communication, implicit or explicit, made by an employer regarding an employee’s or their family member’s immigration status that is made to deter an employee from engaging in protected activities or exercising a right under Washington Revised Code [49.12](#) (Industrial Welfare Act), [49.30](#) (Agricultural Labor Law), [49.48](#) (Wage Payment Law) or any rules issued by the Washington Department of Labor and Industry (L&I)



Amended PFML to Limit Stacking & Expansion of Job Protection – Eff Jan 1, 2026

Washington state has passed amendments to its paid family and medical leave (PFML) program. Notable changes reinforce the requirement that PFML run concurrently with leave under the federal Family and Medical Leave Act (FMLA). Other provisions expand job restoration and affect the continuation of health care for employees on leave. The state is also tasked with creating a notice of PFML rights. The amendments take effect Jan. 1, 2026.

Expansion of Job Restoration

Currently, the job restoration provisions in the unamended PFML law apply only to employees who:

- Work for an employer with at least 50 employees;
- Have been employed by the employer for at least 12 months; and
- Worked for the employer at least 1,250 hours during the 12 months immediately preceding the leave.

The amendments revise the eligibility provisions so that employees will no longer need to satisfy the 12 months/1,250 hours work thresholds. Instead, employees will be entitled to job restoration if they have worked for their employer for at least **180 days** before taking the leave.

In addition, the job restoration requirement will apply to employers **with fewer than 50 employees**, following the phased-in schedule below:

- Twenty-five or more employees: beginning Jan. 1, 2026;
- Fifteen or more employees: beginning Jan. 1, 2027; and
- Eight or more employees: beginning Jan. 1, 2028.

The amendments provide that employees forfeit their right to job restoration unless they exercise that right by the first scheduled workday following leave.

However, if the leave has exceeded two weeks, the employer must provide at least five days' advance written notice to the employee of the expiration of employment restoration and the date of their first scheduled workday.

Restriction on Stacking PFML and FMLA Leave

The current law already provides that PFML be used concurrently with FMLA leave. However, there is no mechanism for reducing PFML or employment protection when employees take FMLA leave before using PFML in the same year (a practice known as "stacking" leave).

The amendments allow employers to count an employee's FMLA leave against their job-protected PFML entitlement when the FMLA leave qualifies for PFML, even if the employee does not apply for or receive PFML. The amendments thus restrict an employee's ability to preserve PFML for later use.

These new provisions will apply only if the employer gives the employee written notice containing specific required information, including that the employee's unpaid leave is being designated as FMLA leave and counted against the employee's job-protected PFML maximum, among other things. The notice must be provided:

- Within five business days of the employee requesting or using FMLA leave—whichever is earlier; and
- Every month for the rest of the employee's FMLA year.

Continuation of Health Care Coverage

The amendments alter the health care coverage requirement by mandating that employers maintain employee coverage during any PFML for which the employee is entitled to job protection. The current PFML law, by contrast, requires that health care coverage be continued only if there is at least one day of overlap with FMLA leave.

Notice of PFML Rights

The PFML law requires employers to provide written notice of PFML rights within five business days after an employee's seventh consecutive day of absence due to family or medical leave or within five business days after the employer has received notice that the employee's absence is due to family or medical leave, whichever is later.



More to come as official guidance is released by the state ahead of the 2026 effective date.

State Passes Leave, Job Protections for Hate Crimes – Eff Jan 1, 2026

Washington has enacted [Senate Bill \(SB\) 5101](#), requiring employers to provide leave from work, safety accommodations and job protections for employees who are the victim of a hate crime or whose family member is a victim, effective Jan. 1, 2026.

Expansion of Law Protecting Victims of Domestic Violence

SB 5101 expands the job protections, accommodations and leave that Washington law affords victims of domestic violence, sexual assault and stalking to cover victims of hate crimes and their family members. The law defines “hate crime” as an offense described in [RCW 9A.36.080](#) and includes offenses committed through online or internet-based communication.

Reasonable Leave and Accommodations

Under the law, employees may take reasonable leave from work, intermittent leave or leave on a reduced leave schedule, with or without pay, to:

- Seek legal or law enforcement assistance or remedies;
- Seek treatment by a health care provider for their or a family member’s physical or mental injuries;
- Obtain or assist a family member in obtaining social services;
- Obtain or assist a family member in obtaining counseling; and
- Participate in safety planning, relocate or take other actions to increase the safety of the employee or employee’s family members.

Employees are required to provide their employers with advance notice of emergency leave as well as specified documentation verifying their need for leave. Confidentiality provisions apply. Employers must additionally provide requested reasonable safety accommodations to hate crime victims if the accommodations do not impose an undue hardship, meaning significant difficulty or expense.

Non discrimination

Employers may not refuse to hire, discharge, threaten to discharge, demote, suspend, or in any manner discriminate or retaliate against an individual because they are an actual or perceived victim of a hate crime.

Limits of Driver’s License Requirements – Eff July 1, 2025

Employers can’t require a driver’s license as a condition of employment or state that applicants must have a driver’s license in a job posting. There’s an exception if driving is an essential function of the job (like for a delivery driver) or is related to a legitimate business purpose for the position.

State Mini-WARN Act – Eff July 1, 2025

Employers with 50 or more full-time employees *in the state* will need to provide 60 days’ written notice to each employee in the event of a mass layoff or business closure that causes loss of employment for 50 or more full-time employees. More information is available on the platform.

Updated Local Minim Wage Changes – Eff July 1, 2025

Burien \$20.16 for Level 2 employers—those with 21–499 full-time equivalent (FTE) employees in King County.

Renton \$19.90 for mid-size employers—those with 15–500 employees or that have annual gross revenue of over \$2 million generated within the city limits of Renton.

Tukwila \$21.10 for mid-size employers—those with 15–500 employees or annual gross revenue of over \$2 million generated within the city limits of Tukwila.

Everett The City of Everett now has its own minimum wage ordinance. The hourly rates will be as follows:



- \$20.24 for large employers
- \$18.24 for other covered employers

Large employers are those with more than 500 employees (located anywhere) and certain franchisees.

Other covered employers are those with 15–500 employees (located anywhere) or that have annual gross revenue of over \$2 million.

For employers with fewer than 15 employees and annual gross revenue of \$2 million or less, the state rate applies.

Future Increases

Starting on January 1, 2026, and annually each January 1 after that, the minimum wage for large employers will increase by the annual rate of inflation.

For other covered employers, the minimum wage will increase to one dollar less than the large employer rate beginning on July 1, 2026. Then, on July 2027, it will be increased to match the large employer minimum wage rate.

Employee Access to Personnel Records – Eff July 27, 2025

On May 13, 2025, Governor Bob Ferguson signed into law Substitute House Bill (SHB) 1308 to amend Washington's Industrial Welfare Act. The new statute significantly pares down this list to include a more tailored, specific definition of applicable records.

Amendments to RCW 49.12.240: Definition of a "Personnel File"

Revised Code of Washington chapter 49.12.240 will now define a "personnel file" to include the following records:

- All job application records;
- All performance evaluations;
- All nonactive or closed disciplinary records;
- All leave and reasonable accommodation records;
- All payroll records; and
- All employment agreements.

Amendments to RCW 49.12.250(1): Requests for Personnel Files and Termination Information

SHB 1308 will now require private employers to actually provide a *copy* of the personnel file to current and former employees (including requests by "designees") – at no cost to the requestor – within 21 calendar days after a request. For purposes of this statute, a "former employee" includes one who separated within three years from the date of the personnel file request.

Private Right of Action

SHB 1308 now provides a private right of action if an employer fails to comply with the new requirements to provide personnel file documents or termination information within 21 days of the request. Affected individuals may obtain equitable relief, statutory damages ranging from \$250 to \$1,000, as well as reasonable attorneys' fees and costs

State Paid Sick Leave to Cover Immigration Proceedings – Eff July 27, 2025

Washington state has amended its paid sick leave law to allow workers to take leave for immigration proceedings. The amendments were passed on April 25, 2025, and take effect July 27, 2025.

The paid sick leave amendments, contained in [Engrossed Substitute House Bill \(ESHB\) 1875](#), allow employees to use their paid sick leave to prepare for or attend judicial or administrative immigration proceedings involving the employee or the employee's family member. The amendments also apply to transportation network companies and their drivers, who are covered by the paid sick leave law.

Under the amendments, employers that require verification of paid sick leave must accept documentation from the following

- An advocate for immigrants or refugees;
- An attorney;
- A member of the clergy; or



- Another professional who is assisting the employee or the employee's family member in the proceeding.

Employers must also accept as verification a written statement from the employee that leave was taken because they or their family member is involved in a qualifying immigration proceeding. The documentation or written statement must not disclose any personally identifiable information about a person's immigration status or underlying immigration protection. ETC will publish a updated State Handbook Addendum ahead of the effective date.

State Expands Criminal History Law – Eff July 1, 2026 & July 1, 2027

Washington [amended](#) the Washington Fair Chance Act (WFCA) to expand restrictions and obligations with respect to the use of criminal records by employers and to increase penalties under the law.

The amendment takes effect:

- July 1, 2026, for employers with 15 or more employees
- July 1, 2027, for employers with fewer than 15 employees

Overview: Amended Regulation

The WFCA currently prohibits employers in the state from seeking an applicant's criminal record before making an initial determination that an applicant is qualified for a position. The amended law will also prohibit employers from:

- Inquiring about an applicant's criminal record before extending a conditional job offer;
- Taking an adverse employment action based on an applicant's or employee's arrest record (other than an adult arrest record in which the individual is out on bail or released on their own recognizance pending trial) or juvenile conviction record;
- Taking an adverse employment action based on an applicant's or employee's adult conviction record unless the employer has a legitimate business reason for doing so; and
- Taking an adverse employment action against an individual who makes a good-faith report of a violation or suspected violation of the law.

The amended law also requires employers to do the following in connection with any adverse employment action taken against an employee or applicant:

- **Provide a pre-adverse employment action notice** that identifies the record on which the employer is relying for purposes of assessing its legitimate business reason;
- **Hold the position open for two business days** to provide the individual a reasonable opportunity to correct or explain the record or provide information on their rehabilitation, good conduct, work experience, education and training; and
- **Provide the individual with a written decision**, including the rationale for the decision, if the employer chooses to take an adverse employment action.

Employer Takeaway: Review and update existing hiring process (including job applications and postings) ahead of the applicable effective date. Employers may also consider training relevant personnel on how to comply with the new legal requirements.

Equal Pay & Opportunities Act & Amendments – Salary Ranges on Job Postings - Eff July 1, 2025

The Washington Equal Pay and Opportunities Act (EPOA) prohibits pay inequity and discrimination in career advancement opportunities for employees and applicants when based on their protected class and not only their gender. A **protected class** will be defined as a person's age, sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability. The addition of "protected class" to the EPOA is a significant expansion of the act's protections because it initially only protected against gender-based discrimination.

The EPOA also:



- Protects employees' right to talk about their pay and have open wage discussions.
- Prohibits applicants from being required to disclose their wage or salary history.
- Prohibits enforcement of wage or salary history criteria that must be met for job consideration.
- Prohibits retaliation.
- **Requires that employers—with 15 or more employees—include a wage scale or salary range, a general description of all benefits, and a general description of other compensation in job postings.**

([WA H 1905](#) was signed by the governor on March 28, 2024)

On April 22, 2025, the Washington State Senate passed [Substitute Senate Bill 5408](#), as [amended by the House](#) on April 15, 2025 ("Amended SSB 5408"), making substantial changes to the Equal Pay and Opportunities Act related to pay and benefit information in job postings, a law that has resulted in hundreds of class action lawsuits since summer 2023.

[Amended SSB 5408](#) makes significant changes to the law as it relates to procedures and potential damages, but it maintains the pay transparency in job posting requirements.

- Under SSB 55408, which amends the Equal Pay and Opportunities Act, Washington employers may **now list a fixed pay amount instead of a wage range if only one amount is offered**, including for internal transfers; postings that are replicated without employer consent are not considered official job postings.
- Between the law's effective date and July 27, 2027, employers have five business days to correct a noncompliant posting after receiving written notice and can avoid penalties if the posting is timely corrected.
- The amended law further defines and clarifies two separate remedies, each of which is exclusive: administrative remedies (civil penalties up to \$1,000 and statutory damages between \$100 and \$5,000 per violation) or remedies via private civil actions, including statutory damages between \$100 and \$5,000 per violation. Each permits statutory damages and considers factors such as willfulness and employer size.

State Announces PFML Premium Rate for 2025 – Jan 1, 2025

Washington state has announced an increase to its paid family and medical leave (PFML) [premium rate](#) for 2025. The rate is adjusted annually based on premiums contributed and benefits paid during the previous year. The Washington Employment Security Department [attributed](#) the rate increase to rising post-COVID-19-pandemic employment, leading to more employees becoming eligible for (and claiming) benefits, among other factors.

Employer Withholding

All employers must withhold employees' premiums from their paychecks and pay the employer's share, if any. The payments are made quarterly, with the filing of employer reports, through [SecureAccess Washington](#). First-quarter premiums using the new rate are due by the end of April 2025. Employers may not retroactively withhold premiums from employees.

2025 Premium Rate

Starting Jan. 1, 2025, the PFML premium rate will be 0.92% of each employee's gross wages, not including tips, up to the 2025 Social Security cap of \$176,100. This is an increase from the 2024 premium rate of 0.74% of wages.

Of the total 0.92% contribution in 2025, employers with 50 or more employees will pay 28.48%, and employee withholding will cover the remaining 71.52%, a similar ratio as in 2024. Employers may pay some or all of the employees' share on their behalf if they choose. Employers with fewer than 50 employees employed in the state are not required to pay the employer portion of premiums, but they are eligible for grant assistance if they do.

Employer Resources An employer toolkit, mandatory poster and paycheck insert are available on the state PFML [website](#).

Local Changes & Regulatory Enactments – July 1



LOCAL MINIMUM WAGE INCREASES

The following minimum wage increases are effective July 1, 2024.

Tukwila

- Large Employers: \$20.29 per hour
- Mid-Size Employers: \$19.29 per hour
- All other employers: state minimum wage

Renton

- Large Employers: \$20.29 per hour
- Mid-Size Employers: \$18.29 per hour
- All other employers: state minimum wage

For both cities, *Large Employers* are defined as those with more than 500 employees worldwide, and all franchisees associated with a franchise that employs more than 500 employees combined. *Mid-Size Employers* are those with 15–500 employees or that have annual gross revenue of over \$2 million generated within city limits.

Renton Extra Hour Offerings

Also beginning July 1, 2024, Renton (like Tukwila) will require that any additional hours be offered and distributed to an employer's part-time workers who have the skills and experience to perform the work before hiring new employees, contractors, or temporary workers.

State Enacts Employee Free Choice Act

On March 28, 2024, Washington state enacted the [Employee Free Choice Act](#) to protect workers from retaliation for refusing to attend meetings or listen to their employer's speech on religious or political matters, including speech regarding labor unions. The law takes effect on **June 6, 2024**.

Employer Takeaway: In preparation for the new law, employers may consider reviewing formal and informal meeting and communication practices to ensure compliance with the new law. Employers may also consider training supervisors on their obligations and restrictions with respect to political and religious speech. Finally, employers should prepare a notice of employee rights.

Learn More:

"Political matters" means matters regarding elections, political parties, proposals to change legislation or regulations, and the decision to join or support a labor organization.

"Religious matters" means matters regarding religious affiliation and practice, and the decision to join or support a religious organization.

Prohibitions

The new law prohibits employers from disciplining, discharging or otherwise penalizing an employee for:

- Refusing to attend or participate in employer-sponsored meetings where the primary purpose is to communicate the employer's religious or political opinions;
- Refusing to listen to speech or view communications (including electronic communications) where the primary purpose is to communicate the employer's religious or political opinions; and
- Making a good faith report of a suspected violation of the new law

The law does **not** prohibit employers from:

- Communicating information that the employer is legally required to communicate;
- Offering voluntary meetings, forums or communications about religious or political matters;
- Communicating information or requiring attendance at meetings necessary for the employee to perform their job duties; or
- Requiring attendance at any training to reduce and prevent workplace harassment or discrimination.

Workplace Notice



Employer must post a notice of employee rights under the new law in a place that is normally reserved for employment-related notices and commonly frequented by employees. Once the Notice is released, ETC will notify employers

Penalties for Noncompliance

Employees alleging violations of the new law may bring a civil action within 90 days of the alleged violation to seek injunctive relief, reinstatement, back pay, reestablishment of any employee benefits and any other appropriate relief as determined by the court.

State Law Expands and Clarifies Non-Compete Statute

On March 13, 2024, Governor Jay Inslee signed into law Substitute Senate Bill 5935 (S.B. 5935), amending Washington's 2019 non-compete statute (RCW 49.62) and expanding the already significant restrictions it places on employers doing business in Washington. The bill will become effective on **June 6, 2024**. Employers with Washington operations that have (or want) non-compete or non-servicing agreements with their employees, or that are considering hiring individuals who have entered into such agreements with other employers, need to understand the implications of these changes. Access Littler's March 27th Publication [HERE](#) to learn more

State Expands Paid Sick Leave

On March 28, 2024, Washington Gov. Jay Inslee signed into law a [bill](#) expanding the definition of "family member" in the state's paid sick leave law and adding to the qualified reasons for leave under the law. The changes take effect **January 1, 2025**. More to come closer to the effective date.

Changes at a Glance:

- Adds as "family members" individuals whose relationship with an employee creates an expectation of care from the employee such as employee's child's spouse and an individual who resides in the employee's home or depends on them for care.
- Allows employees to take leave for public emergency closures. So, Employees can now use paid sick leave when their workplace or their child's school or place of care is closed due to any declared emergency, not just for health-related closures.

West Virginia

State Regulatory Changes Effective **July 2025**

HIRING PREFERENCES FOR MILITARY SPOUSES

Starting **July 9, 2025**, employers can **grant hiring preferences to a military spouse without violating the state Human Rights Act**, provided the military spouse meets all the knowledge, skills, and eligibility requirements of the job.

WORK PERMIT REQUIREMENTS FOR CERTAIN MINORS

Beginning **July 11, 2025**, West Virginia will allow minors that are ages 14 and 15 to work **without** obtaining a permit. Instead, employers will be required to obtain the written consent of the minor's parent, guardian, or custodian, and an age certificate issued by the State

Wisconsin

Wisconsin Arrest Record Protections Clarified by State Supreme Court

In a recent ruling, the Wisconsin Supreme Court held that the state's arrest record discrimination protections, which cover employers of all sizes, apply to non-criminal offenses. *Non-criminal offenses* are those that are punishable by a civil penalty (whereas criminal offenses are those punishable by fine or imprisonment). Non-criminal offenses range from minor infractions like failure to use a turn signal to more serious violations such as first-time operating-while-intoxicated.

The Court's decision is a straightforward interpretation of the statute's broad language, defining **arrest record** to include when someone is questioned, apprehended, held for investigation, arrested, charged, indicted, or tried for any felony, misdemeanor, or other offense (including a non-criminal offense).

Employer Takeaway: Employer should ensure that managers and those involved in hiring are aware that they can't take adverse action based on non-criminal arrest records unless they substantially relate to the job.

Wyoming

State OSHA Increases Civil Penalties – Eff July 2024

The Wyoming OSHA Commission [amended](#) its rules to align Wyoming civil penalties for occupational safety and health citations with the corresponding federal OSHA penalties.

Penalty Changes Overview

Wyoming changes to penalty fees include minimum and maximum penalties for each type of citation. The civil penalties changes are as follows:

- Willful violation—The penalty minimum increased from \$11,162 to \$11,524 per violation, and the maximum amount per violation increased from \$156,259 to \$161,323.
- Repeated violation—The penalty minimum increased from \$11,162 to \$11,524 per violation, and the maximum amount per violation increased from \$156,259 to \$161,323.
- Serious violation—The penalty minimum increased from \$1,116 to \$1,190 per violation, and the maximum amount per violation increased from \$15,625 to \$16,131.
- Other-than-serious violation—The maximum penalties increased from \$15,625 to \$16,131.
- Failure to correct violation—The maximum penalties increased from \$15,625 to \$16,131.
- Posting, reporting or recordkeeping violation—The maximum penalties increased from \$15,625 to \$16,131.

In addition, a gravity-based penalty (GBP) will be proposed for a repeated other-than-serious violation that otherwise would have no initial penalty. The GBP will be \$460 for the first repeated violation, \$1,152 for the second violation and \$2,304 for the third violation.

Employer Takeaway: Employers should become familiar with the new penalty amounts and review their safety protocols to ensure compliance with Wyoming OSHA regulations.

The WIRE is for informational purposes only and should not be construed as legal advice.